

INTERNET
FORM NLRB-501
(2-38)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**Case
09-CA-201596Date Filed
JUNE 28, 2017**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Amazon.com		b. Tel. No. (206) 266-1000
		c. Cell No.
		f. Fax No. (302) 636-5454
d. Address (Street, city, state, and ZIP code) 410 Terry Ave N WA Seattle 98109-5210	e. Employer Representative Jeff P. Bezos Founder, Chairman, Chief Exec. Officer and President	g. e-Mail
		h. Number of workers employed 2000
i. Type of Establishment (factory, mine, wholesaler, etc.) Transportation	j. Identify principal product or service Sort Center	

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 4 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

Title:

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No.

(b) (6), (b) (7)(C)

4c. Cell No.**4d. Fax No.****4e. e-Mail**

(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

(b) (6), (b) (7)(C)

By

(signature of representative or person making charge)

Title:

(b) (6), (b) (7)(C)

(Print/type name and title or office, if any)

Tel. No.

(b) (6), (b) (7)(C)

Office, if any, Cell No.**Fax No.****e-Mail**

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Address (b) (6), (b) (7)(C)

06/28/2017 12:17:59

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Basis of the Charge

8(a)(4)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) filed charges or cooperated with the NLRB.

Name of employee discharged	Approximate date of discharge
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C) 2017

8(a)(4)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) filed charges or cooperated with the NLRB.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Withholding medical injury compensation	(b) (6), (b) (7)(C) 2017





UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 9
550 MAIN ST
RM 3003
CINCINNATI, OH 45202-3271

Agency Website: www.nlrb.gov
Telephone: (513)684-3686
Fax: (513)684-3946

August 22, 2017

(b) (6), (b) (7)(C)

Re: AMAZON.COM
Case 09-CA-201596

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that Amazon.com has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Employer terminated you and withheld medical injury compensation because you previously filed charges with the Board. The evidence did not support these allegations. Regarding the former claim, the evidence failed to establish any connection between your charge filing activities and the termination letter that you received from the Employer. Moreover, the evidence established that the Employer has not terminated your employment, but rather the Employer mistakenly issued you the termination letter, which it subsequently rescinded, due to an admitted clerical error. Regarding your latter claim that the Employer's conduct, withholding medical injury compensation, was motivated because you previously filed charges with the Board, the investigation disclosed that the denial of your claim for medical injury compensation, i.e., your worker's compensation claim, predated any charge that you filed with the Board. Thus, the evidence failed to establish any correlation between the Employer's denial of your claim and your charge filing activities.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlrb.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlrb.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **September 5, 2017**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than September 4, 2017. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before September 5, 2017**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after September 5, 2017, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



Garey Edward Lindsay
Regional Director

Enclosure

cc: Jeff P. Bezos, Founder, Chairman, Chief Exec. Officer and President - Amazon.com
410 Terry Ave N - Seattle, WA 98109-5210

Joseph C. Ragaglia - Morgan, Lewis & Bockius LLP - 1701 Market Street
Philadelphia, PA 19103-2921

Michael E. Lignowski - Morgan, Lewis & Bockius, LLP - 1701 Market St
Philadelphia, PA 19103-2901

Marina C. Gruber, Attorney At Law - Morgan Lewis & Bockius LLP
1400 Page Mill Rd - Palo Alto, CA 94304-1124

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

From: [Gruber, Marina C.](#)
To: [Tansino, Joseph F.](#)
Cc: [Lignowski, Michael E.](#)
Subject: RE: NLRB Charge: Amazon.com 09-CA-201596
Date: Wednesday, August 23, 2017 9:31:20 PM
Attachments: [Position Statement and Exhibits FINAL.pdf](#)

Mr. Tansino:

Attached please find a copy of the Employer's position statement and exhibits in response to the allegations in Case No. 09-CA-201596.

I have been attempting to e-file this attachment, but the Board's website appears to be malfunctioning. I will attempt to e-file again momentarily.

Thank you,
Marina

Marina C. Gruber

Morgan, Lewis & Bockius LLP

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marina.gruber@morganlewis.com | www.morganlewis.com

Assistant: Richard Jackson III | +1.650.843.7579 | richard.jackson@morganlewis.com

From: Tansino, Joseph F. [<mailto:Joseph.Tansino@nlr.gov>]
Sent: Friday, August 04, 2017 11:49 AM
To: Gruber, Marina C.
Subject: RE: NLRB Charge: Amazon.com 09-CA-201596

Marina:

Your extension is granted. I hope you understand I will not be able to grant additional extensions.

Joe

From: Gruber, Marina C. [<mailto:marina.gruber@morganlewis.com>]
Sent: Friday, August 04, 2017 1:57 PM
To: Tansino, Joseph F. <Joseph.Tansino@nlr.gov>
Cc: Lignowski, Michael E. <michael.lignowski@morganlewis.com>
Subject: RE: NLRB Charge: Amazon.com 09-CA-201596

Dear Mr. Tansino:

Thank you for clarifying that the July 18 request for evidence letter was not sent out.

I have been attempting to gather the additional requested information outlined below. Given vacation schedules and efforts to obtain the requested documentation, I will need a short extension

for the position statement.

Please confirm if you are able to grant an extension of the deadline to submit a position statement until **Wednesday, August 23, 2017**. Thank you very much.

Marina

Marina C. Gruber

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Assistant: Richard Jackson III | +1.650.843.7579 | richard.jackson@morganlewis.com

From: Tansino, Joseph F. [<mailto:Joseph.Tansino@nlr.gov>]

Sent: Monday, July 31, 2017 1:51 PM

To: Gruber, Marina C.

Subject: NLRB Charge: Amazon.com 09-CA-201596

Dear Ms. Gruber:

Thank you for your call this afternoon. It appears that my July 18 letter to you requesting evidence in support of this charge was not sent out due to a clerical error. Please consider this correspondence the Region's formal request for evidence.

As we discussed today, the above-styled charge was filed by (b) (6), (b) (7)(C) alleging that Amazon.com withheld medical injury compensation and terminated (b) (6), (b) (7)(C) in retaliation for (b) (6), (b) (7)(C) NLRB charge filing activity. I advised you that I would need a preliminary position statement and supporting documentation. It may later be necessary for me to request to take a sworn affidavit from (b) (6), (b) (7)(C), as well as from any other individuals you believe have information relevant to the investigation of the above-captioned matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from them, constitutes less than complete cooperation in the investigation of the charge. If your client is willing to provide affidavits, please let me know.

Evidence indicates that Amazon.com denied the Charging Party's worker injury claim (b) (6), (b) (7)(C) in the fall of 2016. When was this decision made, and when was it communicated to the Charging Party? Would you please provide any documentation related to this claim that was sent to the Charging Party or the Kentucky Department of Workers' Claims? Has there been any subsequent reconsideration of that decision? Please provide documentation reflecting your client's decision with respect to the Charging Party's worker injury claim.

Evidence also indicates that the Charging Party's (b) (6), (b) (7)(C) 2017 termination was reversed, ostensibly due to a clerical issue. What was the reason for initially issuing the Charging Party a termination letter? What was the clerical issue? Has the Charging Party been offered reinstatement in (b) (6), (b) (7)(C) prior position or in a substantially similar position? The Charging Party alleges that (b) (6), (b) (7)(C) has not

returned to work. Please explain why not. Please provide all non-privileged notes, correspondence (including electronic communications), and decisional documents related or pertaining to the decisions to terminate the Charging Party's employment on (b) (6), (b) (7)(C) and to reverse that termination. Finally, please provide a complete copy of the Charging Party's personnel file.

Please provide your evidence and position in this matter by August 10, 2017. If you are willing to allow me to take affidavits, please contact me by August 3, 2017, to schedule a time to take affidavits. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to www.nlr.gov, select E-File Documents, enter the NLRB case number, and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Very truly yours,

JOSEPH F. TANSINO
Field Attorney

DISCLAIMER

This e-mail message is intended only for the personal use of the recipient(s) named above. This message may be an attorney-client communication and as such privileged and confidential and/or it may include attorney work product. If you are not an intended recipient, you may not review, copy or distribute this message. If you have received this communication in error, please notify us immediately by e-mail and delete the original message.

Morgan Lewis

Michael E. Lignowski

Senior Attorney
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michael.lignowski@morganlewis.com

August 23, 2017

ELECTRONICALLY FILED

Joseph F. Tansino
Field Attorney
National Labor Relations Board, Region 9
John Weld Peck Federal Building
550 Main Street, Room 3003
Cincinnati, OH 45202-3271

Re: Amazon.com Inc. (Case No. 9-CA-201596 – (b) (6), (b) (7)(C))

Dear Mr. Tansino:

Amazon.com.kysc LLC, (“Amazon” or the “Company”) provides this position statement in response to the above-referenced charge filed by (b) (6), (b) (7)(C). The Company understands (b) (6), (b) (7)(C) to allege that Amazon violated Sections 8(a)(1) and 8(a)(4) of the National Labor Relations Act (“the Act”) by (1) discharging (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) 2017 because the employee filed charges or cooperated with the NLRB, and (2) disciplining or retaliating against (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C) 2017 by withholding “medical injury compensation” because (b) (6) filed charges and/or cooperated with the NLRB. These allegations are entirely meritless.

(b) (6), (b) (7)(C) is still currently employed by Amazon. As discussed more fully below, (b) (6), (b) (7)(C) was erroneously sent a termination notice on (b) (6), (b) (7)(C) 2017. (b) (6), (b) (7)(C) employment was reinstated and the termination notice was rescinded. Despite the fact that (b) (6), (b) (7)(C) employment was reinstated, (b) (6) has refused to cooperate with Amazon concerning returning to work following (b) (6), (b) (7)(C) leave. (b) (6), (b) (7)(C) has not performed any work for Amazon since July 2016.

(b) (6), (b) (7)(C) has filed three separate unfair labor practice charges arising out of the same set of facts. (b) (6), (b) (7)(C) alleges numerous claims against the Company, none of which have any bearing on whether (b) (6) was subjected to conduct that violated the Act.

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Amazon did not withhold “medical injury compensation” in March 2017, and the Company did not terminate (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) 2017 because (b) (6) filed an unfair labor practice charge. Amazon’s conduct was entirely lawful and had absolutely nothing to do with any alleged protected conduct.

The charge should be dismissed, absent withdrawal.

FACTUAL BACKGROUND

I. AMAZON.COM

Amazon operates websites that sell various products, including books, electronics, CDs, DVDs, and apparel. Amazon.com facilities receive and sort packages that are divided by zip code and sent out via the United States Postal Service, as opposed to the private services of FedEx or UPS, allowing the packages to be shipped at a lower shipping rate. These facilities are called “Sort Centers,” and are operated by Amazon.com.kysc LLC. Amazon operates numerous Sort Centers in North America, including the one in Hebron, Kentucky, referred to internally as “CVG5.”

II. (b) (6), (b) (7)(C) EMPLOYMENT AT AMAZON

A. (b) (6), (b) (7)(C) Position and Duties.

(b) (6), (b) (7)(C) was hired to work for Amazon on (b) (6), (b) (7)(C) as a part-time Tier 1 Associate in the CVG5 facility. (b) (6), (b) (7)(C) rate of pay was \$12.75 per hour at the time (b) (6) began (b) (6) disability accommodation leave of absence in July 2016. As a part time associate, (b) (6), (b) (7)(C) is not eligible for certain benefits, including personal leaves of absence.

Tier 1 Associates are trained to do every job in the Sort Center. These duties include unloading of trailers delivering packages; “pallet build,” which involves scanning packages, wrapping pallets, and moving pallets; working in the “flat sort” which is the small package sorting area; and fluid loading, which is when packages that are unloaded have to get loaded onto a trailer for eventual delivery. Approximately 80% of all tasks Tier 1 Associates perform at CVG5 involve scanning packages, sorting them, and/or moving packages to a particular area for later delivery to Amazon’s customers.

B. (b) (6), (b) (7)(C) Alleged Work Injury.

On or about July 22, 2016, (b) (6), (b) (7)(C) notified Amazon that (b) (6) had suffered an alleged work injury to (b) (6) left hand and wrist on or about April 6, 2016. The same day, (b) (6), (b) (7)(C) was given the appropriate information for beginning the process of submitting a

workers' compensation claim. (See **Exh. A – (b) (6), (b) (7)(C) Workers' Comp. Forms.**) Amazon's workers' compensation claims are administered by a third-party claims administrator, Sedgwick CMS.

Working with Amazon's safety team, (b) (6), (b) (7)(C) claims of workplace injury were investigated by viewing video footage from the date and time of alleged injury, and interviewing coworkers/witnesses who were nearby on the date and time of the alleged injury. The Company did not agree that (b) (6), (b) (7)(C) was injured as (b) (6) claimed, and the claim for workers' compensation was denied by Sedgwick because the administrator credited Amazon's investigation findings.

On July 27, 2016, Sedgwick notified Amazon and (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) claim had been denied. (See **Exh. B – Denial of (b) (6), (b) (7)(C) Workers' Compensation Claim.**) On or about August 4, 2016, (b) (6), (b) (7)(C) requested that (b) (6) be allowed to seek a second opinion regarding (b) (6), (b) (7)(C) injury, which was permitted. (b) (6), (b) (7)(C) was responsible for seeking a second opinion by August 17, 2016. However, (b) (6), (b) (7)(C) never submitted a second opinion in connection with (b) (6), (b) (7)(C) workers' compensation request. Therefore, the denial of (b) (6), (b) (7)(C) workers' compensation claim became final.

(b) (6), (b) (7)(C) July 22, 2016 workers' compensation claim is the only workers' compensation claim for which Amazon has any record. At no point since July 2016 has (b) (6), (b) (7)(C) filed any additional claim(s) for workers' compensation. (b) (6), (b) (7)(C) did not file any claim for "medical injury compensation" at any point in 2017, and (b) (6), (b) (7)(C) was not denied medical injury compensation on (b) (6), (b) (7)(C) 2017.

C. Amazon's Attempt to Accommodate (b) (6), (b) (7)(C) Medical Requests and (b) (6), (b) (7)(C) Leave of Absence.

In connection with pursuing (b) (6), (b) (7)(C) workers' compensation claim, (b) (6), (b) (7)(C) visited (b) (6), (b) (7)(C), at the St. Elizabeth Business Health Physicians on July 22, 2016. (See **Exh. C – Patient Visit Summary and Instructions**, dated 07/22/2016.) After this initial visit, (b) (6), (b) (7)(C) documented the following work restrictions: "Lift no more than 20 pounds with the left hand (40 pounds total). Avoid grip and twist movements." (*Id.*)

Although (b) (6), (b) (7)(C) workers' compensation claim was denied based on a lack of credible evidence substantiating that (b) (6), (b) (7)(C) injury happened at work in the manner (b) (6), (b) (7)(C) alleged, the Company was still willing to provide (b) (6), (b) (7)(C) a reasonable accommodation for (b) (6), (b) (7)(C) work restrictions, if possible.

On July 25, 2016, Amazon's Job Safety team reviewed (b) (6), (b) (7)(C) work restrictions in order to determine whether the Company could accommodate (b) (6), (b) (7)(C) restrictions with a light duty position. (See **Exh. D – (b) (6), (b) (7)(C) Job Safety Analysis.**) Based on (b) (6), (b) (7)(C) July 22, 2016, work restrictions, (b) (6), (b) (7)(C) was fully restricted from: lifting more than 21 pounds,

crawling, climbing ladders, doing “forceful grasping [or] turning such as using a packaging tape dispenser.” (*Id.*) Additionally, (b) (6), (b) (7)(C) was limited in using (b) (6), (b) (7)(C) hand for repetitive motion, and (b) (6), (b) (7)(C) was limited in (b) (6), (b) (7)(C) ability to do simple grasping or turning, such as grasping a hand scanner for scanning packages.

Reviewing all these restrictions collectively, the Job Safety team determined that there was no light duty position that (b) (6), (b) (7)(C) could perform. As discussed above, 80% of all the work done in the Sort Center involves picking up packages, scanning them, and then physically moving them to another location in the warehouse. (b) (6), (b) (7)(C) simply could not perform any of the functions of (b) (6), (b) (7)(C) job or any other job at CVG5. Further, none of the packages that are sorted in CVG5 are weight stamped. That is, there is no way to immediately and reliably identify how much a package weighs and whether each package would be within (b) (6), (b) (7)(C) weight restrictions. Therefore, the (b) (6), (b) (7)(C) determined that there were no appropriate accommodations. The recommendation of the (b) (6), (b) (7)(C) was as follows: “Taking these restrictions into account, all departments at CVG5 were reviewed and it was determined that there [are] no positions AA could safely work within (b) (6), (b) (7)(C) restrictions.” (*See* Exh. D, p. 2.)

Since (b) (6), (b) (7)(C) was not eligible for a personal leave of absence (as a part time employee), and since there were no light duty positions (b) (6), (b) (7)(C) could perform, the Company’s Workers’ Compensation team, working in conjunction with the Accommodation team, decided to offer (b) (6), (b) (7)(C) a leave of absence as a reasonable accommodation for (b) (6), (b) (7)(C) temporary disability. The Accommodation team determined that (b) (6), (b) (7)(C) could be accommodated with a disability leave of absence following the denial of (b) (6), (b) (7)(C) workers’ compensation claim, and (b) (6), (b) (7)(C) leave of absence was expected to run from (b) (6), (b) (7)(C) 2016 through (b) (6), (b) (7)(C) 2016.² (b) (6), (b) (7)(C) did not return to work on August 18, 2016.

On or about October 10, 2016, (b) (6), (b) (7)(C) submitted an updated notice of (b) (6), (b) (7)(C) medical condition from (b) (6), (b) (7)(C) of the Hand Surgery Specialists. (*See* Exh. E – (b) (6), (b) (7)(C) **Hand Surgery Specialists Work Restriction**, dated 10/10/2016.) This updated work restriction notice states that (b) (6), (b) (7)(C) may return to work as of October 11, 2016, but that (b) (6), (b) (7)(C) work restriction requires that (b) (6), (b) (7)(C) avoid lifting more than 10 pounds. (*Id.*)

¹ Given Amazon’s business size, the Company has three teams that work together for administering employee leaves, disability accommodation, and workers’ compensation claims. The functions of these three teams are to separately administer employee claims, but given the overlapping nature of employee requests for leave, the three teams attempt to work together to ensure that employees’ leave requests are handled and monitored efficiently.

² While (b) (6), (b) (7)(C) leave of absence was initially scheduled to last through (b) (6), (b) (7)(C) 2016, and (b) (6), (b) (7)(C) did not submit updated work restriction information when (b) (6), (b) (7)(C) leave was scheduled to be over in August, the Company allowed (b) (6), (b) (7)(C) leave to continue as an accommodation for (b) (6), (b) (7)(C) disability and the Company did not terminate (b) (6), (b) (7)(C) employment.

Therefore, this second physician determined that (b) (6), (b) (7)(C) could lift *even less* in connection with performing the functions of (b) (6) job. At this point, Amazon was still unable to offer (b) (6), (b) (7)(C) a light duty position, since (b) (6) was not going to be able to meet even the basic requirements of the available positions since (b) (6) was limited in (b) (6) ability to lift, grasp or use (b) (6) left hand. Therefore, (b) (6), (b) (7)(C) remained on a leave of absence as an accommodation for (b) (6) temporary disability.

On January 11, 2017, (b) (6), (b) (7)(C), a (b) (6), (b) (7)(C) for the CVG Region, followed up with (b) (6), (b) (7)(C) on behalf of Amazon's Accommodation team concerning the status of (b) (6) almost six-month leave of absence. (See **Exh. F – Accommodation Case Letter**, dated 01/11/2017.) In (b) (6), (b) (7)(C) January 11, 2017 letter, (b) (6), (b) (7)(C) clearly notes that (b) (6), (b) (7)(C) has “not submitted medical documentation since (b) (6), (b) (7)(C) last leave as accommodation approval which ended on (b) (6), (b) (7)(C)/2016.” (b) (6), (b) (7)(C) letter goes on to state: “Based on your lack of response, it is our assumption you are no longer requesting a job accommodation, as a result we do not regard you as being disabled and you are fully able to perform all your essential job duties. Note: If you have off work during this time, you are to return to work for your next scheduled shift or we will assume you are not returning to work and we will initiate a leave of absence on your behalf, if applicable.” (*Id.*)

D. Amazon Mistakenly Terminates (b) (6), (b) (7)(C) Employment and Then Promptly Rescinds the Termination.

Following (b) (6), (b) (7)(C) January 11 letter to (b) (6), (b) (7)(C) Amazon waited to hear from (b) (6), (b) (7)(C) regarding whether (b) (6) had continuing work restrictions or need further accommodations. (b) (6), (b) (7)(C) failed to respond with any of the requested information concerning (b) (6) ability to return to work or engage in the interactive process. By this time, Amazon was investigating and responding to (b) (6), (b) (7)(C) first unfair labor practice charge, which was filed on January 3, 2017, and Amazon received a request for evidence letter on or about January 12, 2017.

During the week of March 13, 2017, (b) (6), (b) (7)(C) reviewed the record of associates who had performed no work for a portion of the month of March 2017. This record is referred to internally as the “zero hours report.” Reviewing the zero hours report is within the regular course of (b) (6), (b) (7)(C) duties. The zero hours report is pulled from the internal “MyTime”³ human resources database. (b) (6), (b) (7)(C) was on this zero hours report, and the report showed (b) (6) had performed no work since July 2016. Under circumstances such as (b) (6), (b) (7)(C)—where an employee is on a site-approved leave of absence—MyTime should have indicated that an employee

³ MyTime is the electronic database which displays each employee's time record of hours worked. Each zero hours report pulled from MyTime shows the hours worked for each employee during the previous week.

was on a leave of absence, and not simply absent from work. For reasons that are attributed to clerical error, this report did not show that (b) (6), (b) (7)(C) was on a leave of absence, and (b) (6), (b) (7)(C) was not personally familiar with the circumstances concerning (b) (6), (b) (7)(C) approved leave. The zero hours report pulled from MyTime did not include any notes concerning (b) (6), (b) (7)(C) leave of absence. Therefore, it appeared to (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) was absent from work without approval. According to standard practice, (b) (6), (b) (7)(C) then checked Amazon's companion human resources database, called "People Portal," to make sure there were no notes explaining why (b) (6), (b) (7)(C) was not at work (e.g., a site-approved leave of absence). As with the MyTime zero hours report, People Portal did not show (b) (6), (b) (7)(C) on a site-approved leave of absence either.

In line with company policy, (b) (6), (b) (7)(C) reached out to (b) (6), (b) (7)(C) on or about March 14, 2017, and asked (b) (6), (b) (7)(C) when (b) (6), (b) (7)(C) could return to work. (b) (6), (b) (7)(C) failed to respond to (b) (6), (b) (7)(C) email. When an associate fails to report to work or respond as to when (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C) will return to work, Amazon considers them to have abandoned their job after 48 hours of failing to respond to human resources or return to work. Since neither MyTime nor People Portal showed that (b) (6), (b) (7)(C) was on a leave of absence, and (b) (6), (b) (7)(C) failed to respond to (b) (6), (b) (7)(C) email within 2 days, (b) (6), (b) (7)(C) proceeded to issue a termination notice for job abandonment. (b) (6), (b) (7)(C) did not consult with anyone else in human resources or management prior to issuing this termination notice, so (b) (6), (b) (7)(C) did not learn of (b) (6), (b) (7)(C) leave of absence or pending unfair labor practice charge. (b) (6), (b) (7)(C) had no knowledge of (b) (6), (b) (7)(C) unfair labor practice charge filed on January 3, 2017 when (b) (6), (b) (7)(C) issued the termination notice.⁴ This was in line with company practice given the fact that the MyTime and People Portal databases did not show (b) (6), (b) (7)(C) as being on leave. The termination notice, dated (b) (6), (b) (7)(C) 2017, was issued in accordance with standard company policy, and had nothing to do with (b) (6), (b) (7)(C) filing of (b) (6), (b) (7)(C) first unfair labor practice charge or any alleged protected concerted activity.

On March 20, 2017, (b) (6), (b) (7)(C) filed a second unfair labor practice charge⁵ alleging (b) (6), (b) (7)(C) was terminated on (b) (6), (b) (7)(C) 2017 in retaliation for joining or supporting a labor organization, engaging in protected concerted activity, and in retaliation for filing (b) (6), (b) (7)(C) previous unfair labor practice charge and/or cooperating with the NLRB. After receiving notice of this second unfair labor practice charge, Amazon's human resources management immediately began investigating why (b) (6), (b) (7)(C) had been inadvertently terminated. Amazon determined that (b) (6), (b) (7)(C) had been terminated in error, as described above.

⁴ (b) (6), (b) (7)(C) filed (b) (6), (b) (7)(C) first unfair labor practice charge on January 3, 2017. A position statement was submitted on February 9, 2017. The case was dismissed on February 28, 2017. Charging Party appealed on April 4, 2017.

⁵ Case No. 09-CA-195142.

On April 6, 2017, Amazon's Leave of Absence team notified (b) (6), (b) (7)(C) that the notice (b) (6) received terminating (b) (6), (b) (7)(C) employment was sent in error and was rescinded. (See **Exh. G – Letter to (b) (6), (b) (7)(C) dated April 6, 2017.**) This April 6 letter asked (b) (6), (b) (7)(C) to return to work on (b) (6), (b) (7)(C), or notify the Company if additional leave was requested. Amazon did not hear from (b) (6), (b) (7)(C) so (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), emailed (b) (6), (b) (7)(C) on April 11, 2017 to engage in the interactive process concerning (b) (6), (b) (7)(C) ability to perform (b) (6), (b) (7)(C) job duties. (See **Exh. H – (b) (6), (b) (7)(C) Email Correspondence, April 11-17, 2017.**) (b) (6), (b) (7)(C) refused to engage in the interactive process, and instead demanded that (b) (6), (b) (7)(C) be “paid for (b) (6), (b) (7)(C) lost work @ Amazon due to (b) (6), (b) (7)(C) well documented on the job injury there at CVG5, effective July 24, 2016.”

(b) (6), (b) (7)(C) responded to (b) (6), (b) (7)(C) on April 17, 2017 as follows:

Hi (b) (6), (b) (7)(C),

I am familiar with your file. You were placed on a leave of absence, beginning on (b) (6), (b) (7)(C) 2016, as an accommodation for your temporary disability. As you know from the communications Amazon sent last year, your workers' compensation claim was denied.

In line with company policy, your temporary leave of absence from (b) (6), (b) (7)(C) 2016 though the present was unpaid.

We can engage in an interactive dialogue via email to the extent it is productive. If I feel that a phone call is necessary, I will let you know.

Please confirm whether you need an accommodation in order to return to work. If you do need an accommodation, then your medical provider's documentation from last year needs to be updated to describe the accommodation(s) you might need in order to perform your job. I will need your medical provider to complete the attached form by 4/24/2017. If you no longer need an accommodation in order to perform your job, then let's discuss your return-to work date.

Best,

(b) (6), (b) (7)(C)

HR Services – Leave and Accommodations

(b) (6), (b) (7)(C) refused to discuss the issue at hand: (b) (6), (b) (7)(C) need for an accommodation to perform the essential duties of (b) (6), (b) (7)(C) job. Instead, (b) (6), (b) (7)(C) emailed back the following response:

From: (b) (6), (b) (7)(C) [mailto:(b) (6), (b) (7)(C)@gmail.com]
Sent: Monday, April 17, 2017 1:16 PM
To: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>
Subject: Re: Amazon Accommodations Request

Good Afternoon Amazon (b) (6), (b) (7)(C).

Thank you for your note, and your expressed interest in this dialogue. To date though your communication has not been constructive however.

WHEN AN EMPLOYEE IS INJURED ON THE JOB @ AMAZON, THE COMPANY HAS A RESPONSIBILITY, LEGAL RESPONSIBILITY TO THAT EMPLOYEE.

To hide from that responsibility is an unscrupulous business practice.

(b) (6), (b) (7)(C) you are engaged in unscrupulous business practices..

Please **re-familiarize** yourself with the company records on this, and the surgery that followed, and then communicate your recommendation for a fair resolution.

Sincerely,

(b) (6), (b) (7)(C) | MSES/MPA | Environmental Science, Public Affairs, Toxicology, GIS, Statistics, & Environmental Chemistry w/ post graduate study in Nutrition, Epidemiology & Regression Analysis et al, including MBA International Finance & Market Research & Graduate work in Administrative, Environmental, Constitutional, Civil & International Law. Undergraduate work in Economics & Engineering. Languages: English, French, & Spanish [some Portuguese & Italian].

(Exh. H, emphasis in original.)

(b) (6), (b) (7)(C) refused to respond to Amazon's request to engage in the interactive process, and refused to acknowledge the fact that (b) (6), (b) (7)(C) workers' compensation claim had been denied many months prior on the basis of video footage discrediting (b) (6), (b) (7)(C) version of events concerning how (b) (6), (b) (7)(C) was injured. As discussed above, Amazon's third party workers' compensation provider gave (b) (6), (b) (7)(C) the opportunity to provide a second opinion concerning (b) (6), (b) (7)(C) work injury, and (b) (6), (b) (7)(C) failed to do provide the second opinion.

On April 21, 2017, (b) (6), (b) (7)(C), emailed (b) (6), (b) (7)(C) a detailed letter outlining the history of (b) (6), (b) (7)(C) workers' compensation claim, unemployment insurance claim, and leave of absence as an accommodation. (See **Exh. I – (b) (6), (b) (7)(C) Letter to (b) (6), (b) (7)(C)**, April 21, 2017.) (b) (6), (b) (7)(C) detailed Amazon's extensive efforts to accommodate (b) (6), (b) (7)(C) injury by providing (b) (6), (b) (7)(C) a leave of absence while (b) (6), (b) (7)(C) recovered. (b) (6), (b) (7)(C) also reminded (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) obligations to engage in the interactive process and requested that (b) (6), (b) (7)(C) respond to the letter by May 5, 2017.

Again, instead of productively engaging in the interactive process or advising Amazon whether (b) (6), (b) (7)(C) had any work restrictions, (b) (6), (b) (7)(C) emailed an abbreviated version of (b) (6), (b) (7)(C) letter, along with a series of complaints, to Jeff Bezos (Amazon's CEO), (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). (See **Exh. J –**

(b) (6), (b) (7)(C) **Complaint Emails.**) On April 28, (b) (6), (b) (7)(C) emailed a second time claiming that (b) (6), (b) (7)(C) had been physically assaulted by two anti-labor contractors. (*Id.*)

On April 25, (b) (6), (b) (7)(C) told Mr. Bezos that “[y]our subordinate, (b) (6), (b) (7)(C) seems to be acting in bad faith & trying to force this into the legal realm. . . . When an employee is injured on the job @ Amazon, the company has a responsibility, legal responsibility to that employee. To hide from that responsibility is an unscrupulous business practice.” (*Id.*)

Complaints sent directly to Mr. Bezos are treated with a higher level of review. Therefore, (b) (6), (b) (7)(C) April 25 and 28 emails were promptly and thoroughly reviewed and investigated by the escalations team. (b) (6), (b) (7)(C) personally investigated all of (b) (6), (b) (7)(C) claims and found that they largely lacked merit. Specifically, (b) (6), (b) (7)(C) made the following findings:

- The Regional Human Resources Manager’s (“RHRM”) statement that (b) (6), (b) (7)(C) first reported (b) (6), (b) (7)(C) alleged workplace injury in July is supported by sufficient evidence. Neither CVG5 HR, Amcare, Worker’s Compensation, nor Accommodations, had any reports of injuries or medical treatment for (b) (6), (b) (7)(C) before July 2016.
- The RHRM’s statement that the Commission denied (b) (6), (b) (7)(C) Unemployment benefits is partially true. The Commission initially denied (b) (6), (b) (7)(C) Unemployment Claim. After an appeal and a remand for a new hearing, (b) (6), (b) (7)(C) Unemployment Claim is pending a new hearing date.
- The RHRM’s claim that (b) (6), (b) (7)(C) failed to provide requested medical documentation is supported by the evidence. Neither CVG5 HR, Amcare, Accommodations, nor Worker’s Compensation has any record of receiving medical documentation to justify extending (b) (6), (b) (7)(C) “Leave as an Accommodation” beyond August of 2016.
- (b) (6), (b) (7)(C) did not identify any other alleged false assertions made by the RHRM in the Correspondence.
- Finally, (b) (6), (b) (7)(C) did not provide any evidence to indicate that (b) (6), (b) (7)(C) was physically attacked by anti-labor contractors or anyone else for that matter. Neither CVG5 HR or Loss Prevention nor Security has any reports of anyone attacking (b) (6), (b) (7)(C) for any reason.

- (b) (6), (b) (7)(C) refused to cooperate with this investigation and did not provide any additional information to support (b) (6), (b) (7)(C) claims.

(See **Exh. K – Escalation Report.**)

On May 30, 2017, (b) (6), (b) (7)(C) emailed (b) (6), (b) (7)(C) to advise (b) (6), (b) (7)(C) of the results of the investigation into (b) (6), (b) (7)(C) complaints. (b) (6), (b) (7)(C) correspondence was as follows:

(b) (6), (b) (7)(C)

I have completed my review of your situation and found that Amazon policies and procedures were appropriately applied. Your Worker's Compensation case and your NLRB claim were ruled on by the appropriate entity separate from Amazon, and their decisions stand. None of the parties that you claim as recipients of the requested documentation that would justify your continued absence from work, actually received that documentation. There is no record that you reported your injury dated April of 2016 to AmCare prior to July 22, 2016. Thank you for bringing this to our attention and I wish you the best going forward.

Respectfully,

(b) (6), (b) (7)(C)

Amazon has no record of (b) (6), (b) (7)(C) ever responding to (b) (6), (b) (7)(C) May 30 email. Following a short waiting period to determine if (b) (6), (b) (7)(C) had any information to rebut (b) (6), (b) (7)(C) findings, and (b) (6), (b) (7)(C) failure to respond with any additional information, (b) (6), (b) (7)(C) escalated complaint was closed as of June 28, 2017.

E. (b) (6), (b) (7)(C) Refuses to Return to Work or Engage In the Interactive Process.

The Board's July 31, 2017 request for evidence email states: "The Charging Party alleges that (b) (6), (b) (7)(C) has not returned to work. Please explain why not." (b) (6), (b) (7)(C) is not working because (b) (6), (b) (7)(C) has repeatedly refused to return to work, refused to discuss (b) (6), (b) (7)(C) ability to return to work, and refused to engage in the interactive process or discuss whether (b) (6), (b) (7)(C) is currently limited in (b) (6), (b) (7)(C) ability to perform any of the essential functions of (b) (6), (b) (7)(C) job. Amazon's attempts to comply with the Company's legal obligations have been met with lengthy complaints from (b) (6), (b) (7)(C) alleging Amazon has engaged in unscrupulous business practices by denying (b) (6), (b) (7)(C) workers' compensation claims, among other things.

(b) (6), (b) (7)(C) has repeatedly demanded payment for time (b) (6), (b) (7)(C) did not work, even though (b) (6), (b) (7)(C) has been repeatedly advised that (b) (6), (b) (7)(C) leave as an accommodation was unpaid. (b) (6), (b) (7)(C) workers' compensation claim was denied more than one year ago, and (b) (6), (b) (7)(C) failed

to submit a second opinion in support of (b) (6), (b) (7)(C) workers' compensation claim. (b) (6), (b) (7)(C) is not currently working because (b) (6) has refused to cooperate, and this has nothing to do with any alleged protected activity or the fact that (b) (6) filed unfair labor practice charges.

F. **(b) (6), (b) (7)(C) Unemployment Insurance Claim.**

Separately from (b) (6), (b) (7)(C) workers' compensation claim, (b) (6) filed a claim for unemployment even though (b) (6) was not terminated. In approximately August 2016, (b) (6), (b) (7)(C) applied for unemployment through the State of Kentucky (since (b) (6), (b) (7)(C) place of employment is in Hebron, Kentucky). (b) (6), (b) (7)(C) claim for unemployment was denied on September 2, 2016, finding that (b) (6), (b) (7)(C) was ineligible for benefits since (b) (6), (b) (7)(C) was not unemployed. (See **Exh. L – Kentucky Unemployment Appeals Branch Referee Decision.**)

Thereafter, (b) (6), (b) (7)(C) appealed the denial of unemployment benefits on September 8, 2016. The issue before the Division of Unemployment Insurance Appeals Branch Referee was: "Whether the claimant is on a voluntary leave of absence and is ineligible for benefits." (*Id.*) After recounting the factual background of (b) (6), (b) (7)(C) claims,⁶ the Referee detailed that "[t]he claimant informed the employer of (b) (6), (b) (7)(C) restrictions, and the employer, who had no work available within the restrictions, placed the claims on a medical leave of absence until restrictions are lifted or until October 22, 2016, when the claimant's medical leave will end." Upholding the denial of unemployment benefits, the Referee found: "DECISION: The determination is affirmed and the claimant's ineligibility is extended to the week of September 24, 2016, and will continue so long as conditions remain substantially unchanged." (*Id.*, pp. 1–2.)

In (b) (6), (b) (7)(C) April 25 response to (b) (6), (b) (7)(C) April 21 letter, (b) (6), (b) (7)(C) alleged that (b) (6), (b) (7)(C) in the same letter goes on to document that Amazon contested my unemployment claims to the KY State Unemployment Commission. (b) (6), (b) (7)(C) makes the false claim that my benefits were denied by stating, 'Upholding the denial of unemployment benefits, the Referee found: 'DECISION: The determination is affirmed and the claimant's ineligibility is extended to the week of September 24, 2016, and will continue so long as conditions remain substantially unchanged.' The truth of the matter, as (b) (6), (b) (7)(C) well knows, is that I appealed the Referee decision (b) (6), (b) (7)(C) documents and won the case. Amazon lost this case, the final determination being that Amazon was responsible for creating my 'Involuntary Unemployment.' ""

⁶ The Referee Decision lists (b) (6), (b) (7)(C) date of injury as April 16, 2016. Even though this date is different than the date provided by (b) (6), (b) (7)(C) in July when the Company began the process of reviewing (b) (6), (b) (7)(C) claim for workers' compensation, the difference has no material effect on whether the Board should dismiss this baseless charge since (b) (6), (b) (7)(C) remained employed and was granted an extended leave of absence as an accommodation for (b) (6), (b) (7)(C) temporary disability.

Contrary to (b) (6), (b) (7)(C) belief, Amazon has no record of being served with (b) (6) appeal of the Referee's decision or that (b) (6) "won the case." Based on (b) (6), (b) (7)(C) representations in (b) (6) email correspondence, Amazon searched its files to determine if notice of this appeal was ever served on the Company, but it was not. Given this oversight, the Company filed two⁷ Kentucky Open Records Act requests with the Kentucky Division of Unemployment Insurance Appeals Branch to obtain information concerning (b) (6), (b) (7)(C) alleged appeal of the Referee Decision and any records relating to an alleged reversal of the Referee's Decision.

As of the date of the filing of this position statement, Amazon has not yet received the requested documents from the Kentucky Division of Unemployment Insurance Appeals Branch. However, counsel for Amazon discussed the case with a representative from the Appeals Branch and was advised that no final determination had been made as to (b) (6), (b) (7)(C) eligibility for unemployment insurance payments. In any event, the Company's response to (b) (6), (b) (7)(C) claims for unemployment were entirely lawful and had nothing to do with (b) (6), (b) (7)(C) alleged protected activity.

DISCUSSION

I. (b) (6), (b) (7)(C) SECTION 8(A)(1) AND 8(A)(4) ALLEGATIONS ARE MERITLESS.

Based on the factual record, it is clear that (b) (6), (b) (7)(C) allegations are without merit.

First, (b) (6), (b) (7)(C) was not discharged in retaliation for (b) (6), (b) (7)(C) cooperation with the NLRB or (b) (6), (b) (7)(C) filing of unfair labor practice charges. (b) (6), (b) (7)(C) termination notice was a clerical error. (b) (6), (b) (7)(C) who was unfamiliar with (b) (6), (b) (7)(C) leave of absence, reviewed the zero hours report and did not see any reason why (b) (6), (b) (7)(C) had not reported to work. After requesting that (b) (6), (b) (7)(C) return to work and (b) (6), (b) (7)(C) did not respond, (b) (6), (b) (7)(C) terminated (b) (6), (b) (7)(C) for job abandonment. As discussed above, this was in error and it was promptly rescinded.

(b) (6), (b) (7)(C) is still an Amazon employee, and has been a disability accommodation leave of absence for the past 13 months. (b) (6), (b) (7)(C) has repeatedly refused to engage in the interactive process, and has refused to advise Amazon as to whether (b) (6), (b) (7)(C) has any continuing work restrictions.

(b) (6), (b) (7)(C) cannot provide any evidence that (b) (6), (b) (7)(C) was discharged, disciplined or retaliated against because (b) (6), (b) (7)(C) filed unfair labor practice charges or cooperated with the NLRB.

⁷ The first request was filed on June 15, 2017. The Division of Unemployment Insurance Appeals Branch required additional information from counsel for Amazon, and a second request was filed on July 31, 2017.

A. Amazon Did Not Withhold Medical Injury Compensation or Discharge (b) (6), (b) (7)(C) Because of (b) (6), (b) (7)(C) Protected Conduct.

Given that Amazon is alleged to have retaliated against (b) (6), (b) (7)(C) after (b) (6), (b) (7)(C) filed unfair labor practice charges and/or cooperated with the NLRB, the Board's *Wright Line* test applies here. In other words, the legal question is what motivated Amazon's allegedly discriminatory conduct: (b) (6), (b) (7)(C) asserted conduct, or Amazon's legitimate business conduct.

In cases concerning alleged unlawful terminations, the Board typically utilizes the legal framework established under *Wright Line*, 251 NLRB 1083 (1980), *enfd.*, 662 F.2d 899 (1st Cir. 1981), *cert. denied*, 455 U.S. 989. Under this multi-part test, first "the General Counsel must make a *prima facie* showing sufficient to support the inference that protected conduct was a 'motivating factor' in the employer's decision." *See Wal-Mart Stores, Inc.*, 352 NLRB 815, 845 (2008). Additionally, a violation necessarily depends on a causal connection between employee protected activities and an adverse employment action. *See P.W. Supermarkets Inc.*, 269 NLRB 839, 840 (1984). If this showing is made by a preponderance of the evidence, "the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct." *Wal-Mart Stores*, 352 NLRB at 845; *see Cardinal Home Prods., Inc.*, 338 NLRB 1004, 1008 (2003). "The Board also applies this *Wright Line* analysis to allegations that an employer violated Section 8(a)(4) and (1) by discriminating against 'an employee because he has filed charges or given testimony' in a Board proceeding." *Verizon*, 350 NLRB 542, 546-547 (2007); *American Gardens Mgmt. Co.*, 338 NLRB 644, 644-645 (2001); *Gary Enterprises*, 300 NLRB 1111, 1113 (1990), *enfd. mem.* 958 F.2d 368 (4th Cir. 1992). *Midwest Terminals of Toledo Int'l*, 2016 NLRB LEXIS 37, *78 (NLRB Jan. 21, 2016).

Under this framework, (b) (6), (b) (7)(C) has not presented any allegations to support a *prima facie* case of unlawful termination or unlawful refusal to provide "medical injury compensation." Further, if the limited facts presented by (b) (6), (b) (7)(C) could be construed as providing that predicate *prima facie* case, which they cannot, Amazon still had a legitimate business reason for providing (b) (6), (b) (7)(C) with unpaid leave. Additionally, (b) (6), (b) (7)(C) disability prevented (b) (6), (b) (7)(C) from performing even the basic functions of (b) (6), (b) (7)(C) job, and (b) (6), (b) (7)(C) has refused to engage in the interactive process or return to work. For these reasons, the charge should be dismissed, absent withdrawal.

1. (b) (6), (b) (7)(C) Allegation of Failure to Pay "Medical Injury Compensation" Is Baseless.

In order to meet (b) (6), (b) (7)(C) *prima facie* burden, (b) (6), (b) (7)(C) must establish that (b) (6), (b) (7)(C) filing of unfair labor practice charges and cooperation with the NLRB were the "motivating factors" behind the Company's failure to pay "medical injury compensation" – which Amazon can only assume refers to workers' compensation. *See Wal-Mart Stores, Inc.*, 352 NLRB at

845. Additionally, a violation necessarily depends on a causal connection between employee protected activities and an adverse employment action. *See P.W. Supermarkets Inc.*, 269 NLRB at 840.

There is simply no possible way (b) (6), (b) (7)(C) can establish this. (b) (6), (b) (7)(C) filed for workers' compensation on July 22, 2016. (b) (6), (b) (7)(C) workers' compensation claim was denied on July 27, 2016. (b) (6) never filed another workers' compensation claim.

(b) (6), (b) (7)(C) first unfair labor practice charge was filed on January 3, 2017—more than five months after (b) (6), (b) (7)(C) workers' compensation claim was denied. Amazon's third-party administrator's decision to deny (b) (6), (b) (7)(C) workers' compensation could not have been motivated in any way by an event that took place months after the decision was made. (b) (6), (b) (7)(C) claims are baseless and must be dismissed.

2. (b) (6), (b) (7)(C) Allegation that (b) (6), (b) (7)(C) Was Terminated for Filing an Unfair Labor Practice Charge Is Baseless.

The evidence demonstrates that (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) termination was a clerical error that was not motivated in any way by (b) (6), (b) (7)(C) unfair labor practice charges or (b) (6), (b) (7)(C) cooperation with the NLRB. (b) (6), (b) (7)(C) had no knowledge of (b) (6), (b) (7)(C) January 2017 unfair labor practice charge, and in no way assisted in the preparation of the Company's position statement in response to that charge. (b) (6), (b) (7)(C) was not aware that (b) (6), (b) (7)(C) had cooperated with the NLRB. The human resources databases did not list (b) (6), (b) (7)(C) as being on a leave of absence. (b) (6), (b) (7)(C) followed company procedure, which mandated that associates who appeared on the "zero hours report" be contacted and asked to return to work. (b) (6), (b) (7)(C) did not respond to (b) (6), (b) (7)(C) correspondence. (b) (6), (b) (7)(C) followed company procedure and issued a form termination letter based on job abandonment.

Once the clerical error was discovered and investigated, (b) (6), (b) (7)(C) was promptly reinstated. (See **Exh. G.**) Amazon requested that (b) (6), (b) (7)(C) return to work or advise the Company if (b) (6), (b) (7)(C) had continuing work restrictions. (*Id.*) (b) (6), (b) (7)(C) rescinded (b) (6), (b) (7)(C) termination was not connected in any way to (b) (6), (b) (7)(C) unfair labor practice charge or cooperation with the NLRB.

3. Assuming (b) (6), (b) (7)(C) Could Prove (b) (6), (b) (7)(C) Prima Facie Case, Amazon's Conduct Was Based on Legitimate Business Reasons.

Assuming *arguendo* that a *prima facie* case was presented by the charge, which is not the case, the Company has legitimate business reasons for its conduct.

(b) (6), (b) (7)(C) was denied workers' compensation by a third party administrator because (b) (6), (b) (7)(C) claim about how (b) (6) was injured was not substantiated. (b) (6) never provided a second

medical opinion, so the third party administrator's denial became final. This all happened months before (b) (6) filed (b) (6) first unfair labor practice charge.

(b) (6), (b) (7)(C) unemployment insurance claim, and Amazon's response to that claim, are entirely unconnected from any alleged protected conduct and the Kentucky Unemployment Appeals Branch also made its decision(s) concerning (b) (6), (b) (7)(C) status months before (b) (6) filed (b) (6) first unfair labor practice charge.

As detailed above, (b) (6), (b) (7)(C) was placed on a temporary leave of absence as an accommodation because (b) (6) was not eligible for workers' compensation, (b) (6) was not eligible for a personal leave of absence, and (b) (6) work restrictions prevented (b) (6), (b) (7)(C) from performing any light duty work. (b) (6), (b) (7)(C) is not currently working because (b) (6) has repeatedly and adamantly refused to engage in the interactive process concerning whether (b) (6) has any present work restrictions, and (b) (6) has refused to return to work.

For all these reasons, the Company's treatment of (b) (6), (b) (7)(C) was appropriate and lawful, and the charge should be dismissed, absent withdrawal.

CONCLUSION

Given the record evidence, this charge should be dismissed, absent withdrawal.

Please let us know if you have any questions or need any additional information. If additional information or evidence is provided by the Charging Party, please afford the Company an opportunity to respond to it.

Sincerely,

Michael Lignowski

MICHAEL E. LIGNOWSKI

EXHIBIT A

External Occupational Communication Form

INCIDENT DETAILS & CARE PROVIDED

Associate Name: (b) (6), (b) (7)(C)
Date of Injury: 4/6/2016
Complaint: pain in left thumb/wrist area
Mechanism of Injury: Setting oversize box on conveyor
Job Function at Time of Injury: n/a
Number of AMCARE Treatments: 2-3
Treatment Provided by AMCARE: Ice

Pain Level at Start of Care: 5 /10

Current Pain Level: 5 /10

OMR Name: (b) (6), (b) (7)(C)

Date:

The following documents should also be provided:

1. Authorization for Initial Medical Evaluation
2. First Report of Injury (FROI)
3. All related OHM notes (Documentation of care provided at the facility)
4. Copy of the RMI

Confidentiality Notice: The information contained in this document is confidential. The message is intended for the sole use of the individual or entity to which it is addressed. If you are not the intended recipient, you are notified that any use, distribution or copying of the message is strictly prohibited and may subject you to criminal or civil penalties. If you received this transmission in error, please contact the sender immediately by replying and delete the material from any computer.

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF WORKERS' CLAIMS
Notice of Designated Physician

Claim No: _____

FORM 113

Designation of Physician

Revised 03-12-03

2 PAGES

Name

(b) (6), (b) (7)(C)

Social Security Number

(b) (6), (b) (7)

Address

(b) (6), (b) (7)(C)

City, State, Zip

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Date of Birth

Phone Number (b) (6), (b) (7)(C)

Employer at Time of Injury or Last Exposure:

AMAZON FULFILLMENT

1050 South Columbia Avenue

Campbellsville, Kentucky 42718

Nature of Injury or Occupational Disease: *pain in left thumb/wrist area*

Date of Injury or Last Exposure *4/6/2016*

First Designated Physician: *St. Elizabeth Business Health Physicians*

Practice Name: *St. Elizabeth Business Health*

Address: *2200 Conner Road, Hebron, KY 41048*

Phone:

Accepted by: _____

MEDICAL INFORMATION RELEASE:

I hereby waive any privilege I may have to restrict the release of information or written material reasonably related to the work related injury/disease for which I have sought treatment and I consent to the release of this information or written material to the medical payment obligor, my employer, Special Fund, Uninsured Employers' Fund or attorneys representing me or any of the parties named above.

Date: *July 22, 2016* Employee Signature: _____

(b) (6), (b) (7)(C)

MEDICAL PAYMENT OBLIGOR:

SEDGWICK CMS

P.O Box 14484

Lexington, Kentucky 40512

Phone: 865-583-8330

Representative: Melinda Jennings

This form identifies the designated physician and must be returned to the medical payment obligor within ten (10) days after the treatment begins. An identification card will be provided to the employee and that card should be presented when medical treatment.

REDACTED AND CONFIDENTIAL

**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF WORKERS' CLAIMS**

Claim No: _____

FORM 106
Adopted July 2003

2 PAGES

I, **(b) (6), (b) (7)(C)** having filed a claim for workers' compensation benefits, do hereby waive any physician-patient, psychiatrist-patient, or chiropractor-patient privilege I may have and hereby authorize any health care provider to furnish to myself, my attorney, my employer, its workers' compensation carrier or its agent, the Division of Workers' Compensation Funds, The Uninsured Employers' Fund or Administrative Law Judge any information or written material reasonably related to my work-related injury occurring on or about 4/6/2016 . Any medical information relevant to the claim including past history of complaints of, or

treatment of, a condition similar to that presented in this claim or other conditions related to the same body part.

Such information is being disclosed to the purpose of facilitating my claim for Kentucky Workers' Compensation benefits.

I understand I have the right to revoke this authorization in writing at any time, by sending written notification to each individual health care provider, but such revocation will not have any effect on actions taken prior to revocation. Moreover, inasmuch as KRS 342.020(8) requires a medical waiver to be executed, revocation may result in suspension or delay of the workers' compensation claim.

I understand that no medical provider may condition treatment or payment on whether I sign this medical waiver, however, I further understand that failure to sign this medical waiver may result in suspension or delay of the workers' compensation claim.

I understand that the information used or disclosed pursuant to this medical waiver may be subject to re-disclosure by the recipient.

This authorization shall remain valid for 180 days following its execution. A photocopy of the authorization may be accepted in lieu of the original.

The authorization includes, but is not restricted to, a right to review and obtain all copies of all records, x-rays, x-ray reports, medical charts ,prescriptions, diagnoses, options and courses of treatment.

Signed at Amazon Fulfillment, Campbellsville, Kentucky, this date

(b) (6), (b) (7)(C)

Signature of Patient or Personal Representative: _____

Social Security Number: **(b) (6), (b) (7)**

Description of Personal Representative's Authority:

Witness Signature: _____

AUTHORIZATION FOR INITIAL MEDICAL EVALUATION

Name (b) (6), (b) (7)(C)

Date of Birth (b) (6), (b) (7)(C)

Social Security No.

(b) (6), (b) (7)(C)

Date of Injury 4/6/2016

Time of Injury unknown

Date Reported 7/22/2016

Time Reported 07/22/2016

Appointment Date: 7/22/2016

Appointment Time:

Nature of Injury or Occupational Disease: pain in left thumb/wrist area

ORGANIZATION AUTHORIZED TO PROVIDE INITIAL MEDICAL EVALUATION:

Provider Name: St. Elizabeth Business Health

Address: 2200 Conner Road, Hebron, KY 41048

Phone:

AMAZON CONTACT INFORMATION

Workers' Compensation Specialist

(b) (6), (b) (7)(C)

AMCARE Representative

(b) (6), (b) (7)(C)

AMAZON FULFILLMENT PERSONNEL AUTHORIZING INITIAL MEDICAL EVALUATION:

Name: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

Signature:

Date:

7-22-16

Written Notice of Employee Right to Choose His / Her Physician

The employee may chose the treating physician and can change that selection one time, no questions asked. Employees must notify the employer of the physician choice. Amazon does have a "preferred" provider, and we may be able to get you an appointment more quickly, but you, the employee still have the right to choose. Employees should ask the treating physicians to promptly report their status to the employer and insurance carrier. Prompt reporting speeds payment of benefits and helps employers and physicians in assisting employees to return to work.

Maintaining Open Lines of Communication

In addition to promptly reporting injuries and medical status to your employer, employees should keep lines of communication with the employer open after every appointment attended. Please return all paper work to your HR contact after every appointment.

Associate Responsibilities Regarding Work Related Injuries

Any associate who has a work related injury is expected to follow their treatment plan and work restrictions. Compliance with work restrictions also includes observing these limits when you are not at work. In addition, we expect you to timely and consistently communicate and cooperate with representatives from Amazon, Amazon's Workers' Compensation Claims Representative and others who are involved in your recovery and return to work. Any changes in your health condition, your ability to work and your treatment plan should be communicated to your Manager, AM CARE and your Workers' compensation specialist so that we can work with you to d

Signature: _____

Printed Name _____

Date: _____

EXHIBIT B

Sedgwick Claims Management Services, Inc.
P O Box 14484
LEXINGTON, KY 40512-4484



Phone: (865)583-8325
Fax: (865)583-8310

July 27, 2016

(b) (6), (b) (7)(C)

RE: Employee: (b) (6), (b) (7)(C)
 Employer: Amazon.com
 Date of Injury: 02/28/2016
 Claim Number: (b) (6), (b) (7)(C)

Dear (b) (6), (b) (7)(C) :

Sedgwick Claims Management Services administers Workers' Compensation claims on behalf of Amazon.Com, Inc..

After careful consideration of all available information, it is our opinion that your claim for Workers' Compensation benefits is not compensable.

Sincerely,
Sedgwick Claims Management Services, Inc.

[Redacted signature]

[Redacted email address]@sedgwickcms.com

cc:

(b) (6), (b) (7)(C)

EXHIBIT C

Patient Visit Summary and Instructions

St Elizabeth Business Health - Hebron
2200 Conner Road
Hebron, KY 41048
859-344-2030

PATIENT LAST NAME (b) (6), (b) (7)(C)		PATIENT FIRST NAME (b) (6), (b) (7)(C)	AGE (b) (6)	GENDER U
DATE OF TREATMENT 07/22/2016	DATE OF INJURY OR ILLNESS 04/06/2016	PRACTITIONER'S NAME (b) (6), (b) (7)(C)		
PATIENT'S DESCRIPTION OF PROBLEM CHIEF COMPLAINT: Patient wrote:"I was reaching over a conveyor to put an oversize box on the lone. Left wrist and thumb."				
DIAGNOSIS DIAGNOSIS: 1. Wrist sprain, left (S63.502A). 2. Left DeQuervain's tenosyovitis (M65.4).				
MEDICATIONS PRESCRIBED				
WORK OR ACTIVITY RESTRICTIONS WORK CAPACITY (b) (6), (b) (7)(C) work status is restricted duty. (b) (6), (b) (7)(C) should wear the wrist splint when working, driving and sleeping. Lift no more than 20 pounds with the left hand (40 pounds total). Avoid grip and twist movements.				
AFTERCARE INSTRUCTIONS AFTERCARE INSTRUCTIONS: Splint. Ice. Restrictions. Revisit in 6 days to assess initial progress. (b) (6), (b) (7)(C) understands to revisit sooner that the next scheduled appointment if there are any questions, problems or concerns.				

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TREATMENT RENDERED

MEDICAL DECISION MAKING:

The clinical anatomy of this injury was reviewed with (b) (6), (b) (7)(C) in layman's terms and (b) (6), (b) (7)(C) expresses understanding.

The use of ice was explained.

Provided with a wrist splint with thumb abductor for protection of the wrist and thumb tendons.

(b) (6), (b) (7)(C) indicates that (b) (6), (b) (7)(C) is planning to follow-up with his orthopedist at Beacon Orthopedics.

MEDICAL CAUSATION

MEDICAL CAUSATION: The cause of this problem is not certain at this time.

NEXT APPOINTMENTS

07/28/2016 3:40 pm

Work Comp Injury Recheck

(b) (6), (b) (7)(C)

Hebron

PATIENT

I received this information and was given the opportunity to ask questions about my care.

(b) (6), (b) (7)(C)

STAFF MEMBER

I reviewed this information with the patient. The patient verbalized understanding.

(b) (6), (b) (7)(C)



Health Care Provider Request for Medical Information (RMI)

NOTE TO EMPLOYEE: You must provide a copy of this completed report to the HR LOA Team by ___/___/___

SECTION I: COMPLETED BY THE EMPLOYEE/PATIENT

Employee Name (Please Print):	Employee Phone Number:	Date Injury/Illness Commenced: 4-6-16
HR Contact Name / Phone Number	Scan/Email	Fax Number (toll-free)

The Genetic Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting, or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

SECTION II: COMPLETED BY THE HEALTH CARE PROVIDER

Patient Name (Please Print): (b) (6), (b) (7)(C)		Date of Examination (month/day/year): 7-22-16
Identify the injury or illness for which treatment is sought: [Redacted]		
Approximate beginning date of the period of incapacity:		Approximate end date of the period of incapacity:
<input type="checkbox"/> Work-Related <input type="checkbox"/> Not Work-Related <input checked="" type="checkbox"/> Undetermined		<input type="checkbox"/> Pre-Existing Injury/Illness <input checked="" type="checkbox"/> New Injury/Illness <input type="checkbox"/> Undetermined
Was medication, other than over-the-counter medication prescribed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If the patient will be under the influence of the medication during working hours, please describe side effects that could impair the patient's ability to work:	
Will additional treatments be required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, please provide a description of the general type of treatment you anticipate: Pain	
Does this condition substantially limit the patient's ability to perform major life activities? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, please identify the major life activity (or activities) affected, and describe how the condition substantially limits that major life activity: L and left hand lift, grasp, turn	

SELECT ONE (1) OPTION:

<input type="checkbox"/> UNABLE TO RETURN TO WORK: Please note: If you check this box, Amazon will require an additional update before the employee is released.	Estimated Return to Work Date:	Date of Next Visit:
<input type="checkbox"/> EMPLOYEE CAN RETURN TO WORK:	Date Employee is Released to Return to Work Without Restrictions:	
<input type="checkbox"/> WITHOUT WORK RESTRICTIONS Please complete page 1 only	→	
<input checked="" type="checkbox"/> WITH WORK RESTRICTIONS Please complete page 2 AND indicate how long the restrictions are in place.	→ 7/22/16	

SECTION III: HEALTH CARE PROVIDER SIGNATURE AND CONTACT INFORMATION

Health Care Provider's Name/Title (Print): (b) (6), (b) (7)(C)	Address: (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)	City, State, ZIP: (b) (6), (b) (7)(C)
Date 7-22-16	Phone: (b) (6), (b) (7)(C)
	Fax: (b) (6), (b) (7)(C)

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Employee Name (Please Print):

(b) (6), (b) (7)(C)

Hours worked per shift:

SECTION IV: WORK RESTRICTIONS

	Ability of Patient: (percentages indicate the proportion of the patient's shift the patient can perform the function)	Fully Restricted	25%	50%	75%	Not Restricted	If Temporary Restricted Until?	Permanent
1	a. Lift up to 5 lbs. (circle one) Left , Right, Both	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	b. Lift 5 – 10 lbs. L, R, B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	c. Lift 11 – 20 lbs. L, R, B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	d. Lift 21 – 30 lbs. L, R, B	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	e. Lift 31 – 50 lbs. L, R, B	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
2	a. Push/Pull up to 5 lbs. L, R, B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	b. Push/Pull 5 – 10 lbs. L, R, B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	c. Push/Pull 11 – 20 lbs. L, R, B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	d. Push/Pull 21 – 30 lbs. L, R, B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	e. Push/Pull 31 – 50 lbs. L, R, B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
3	a. Overhead Reach L, R, B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	b. At Shoulder Reach L, R, B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	c. Below Shoulder Reach L, R, B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	d. Rotation of Head/Neck	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
4	a. Bend/twist	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	b. Kneel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	c. Crawl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	d. Squat	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
5	a. Sit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	b. Stand	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	c. Walk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	d. Climb stairs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	e. Climb ladders	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
6	a. Use hands for repetitive motion L, R, B	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	b. Do simple grasping, turning such as grasping hand scanner (<15 inch-pounds) L, R, B	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	c. Do forceful grasping, turning such as using a packaging tape dispenser (>15 inch-pounds) L, R, B	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
7	a. See	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	b. Hear	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
	c. Talk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>

8 Can the patient work more than 40 hours within a week? ☐ YES ☒ NO
 If no, please indicate the number of hours the patient can work: _____ hours/day 42 hours/week

9 Can the patient drive commercial machinery such as a delivery van, forklift, reach truck, scissor lift or truck? ☐ YES ☒ NO

10 Does the patient have any work restrictions related to a psychological or mental condition? ☐ YES ☒ NO

11 Please describe any other recommended work restrictions or temporary work accommodations, whether related to the patient's mental or physical condition, medication, or treatment considerations:

SECTION V: ADDITIONAL TREATMENT CONSIDERATIONS (check and describe if applicable)

☒ Splint/Brace ☐ Crutches
☐ Neck/Lumbar Support

Location and description of device (soft or hard, open toe or closed toed boot, arm, wrist, etc.):

☐ Heat ☐ Ice
☐ Elevate ☐ Physical Therapy

Duration and frequency:

EXHIBIT D



Job Safety Analysis

CVG5

Name:

Area Manager- (b) (6), (b) (7)(C)

Work Accommodation Analysis –

(b) (6), (b) (7)(C)

Date: 7/25/2016

Introduction:

The above named associate has presented medical documentation, with the following restrictions:

Ability of Patient	L,R,B	Fully Restricted	25%	50%	75%	Not Restricted	Additional Notes
1 a Lift up to 5 lbs	Left					x	
b Lift 5 - 10 lbs	Left					x	
c Lift 11 - 20 lbs	Left					x	
d Lift 21 - 30 lbs	Left	x					
e Lift 31 - 50 lbs	Left	x					
2 a Push/Pull up to 5 lbs	Left					x	
b Push/Pull 5 - 10 lbs	Left					x	
c Push/Pull 11 - 20 lbs	Left					x	
d Push/Pull 21 - 30 lbs	Left					x	
e Push/Pull 31 - 50 lbs	Left				x		
3 a Overhead Reach	Left					x	
b At Shoulder Reach	Left					x	
c Below Shoulder Reach	Left					x	
d Rotation of Head/Neck						x	
4 a Bend/twist						x	
b Kneel						x	
c Crawl		x					
d Squat				x			
5 a Sit						x	
b Stand						x	
c Walk						x	
d Climb stairs						x	
e Climb Ladders		x					
6 a Use hands for repetitive motion	Left		x				
b Do simple grasping, turning such as grasping hand scanner (<15 inch-pounds)	Left			x			
c Do forceful grasping, turning such as using a packaging tape dispenser (> 15 inch-pounds)	Left	x					
7 a See							
b Hear							
c Talk							
8 Can the patient work more than 40 hours within a week?						Yes	No x
If no, please indicate the number of hours the patient can work:						hours/day	40 hours/week
9 Can the patient drive commercial machinery such as a forklift, reach truck, scissor lift or truck?						Yes	No x
10 Does the patient have any work restrictions related to a psychological or mental condition?						Yes	No x
11 Please describe any other recommended work restrictions or temporary work accommodations, whether related to the patient's mental or physical condition, medication, or treatment considerations:							
							Wear splint while at work

Taking these restrictions into account, All Departments at CVG 5 were reviewed to determine if there are any positions, in which this assoicate could safely work.

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EXHIBIT E

Hand Surgery Specialists10700 Montgomery Road, Suite 150
Cincinnati Ohio 45242 (513) 961-4263**(b) (6), (b) (7)(C)**Patient: **(b) (6), (b) (7)(C)**

Examined On: 10/10/2016

Diagnosis: **De Quervain's tenosynovitis, left****RETURN TO WORK:**

- ☐ May not return to work or school in any capacity at this time
☐ May return to work or school without restrictions on (Date) _____
☒ May return to work or school with restrictions below on (Date) 10-11-16
☐ May return to work or school without restrictions (Date) _____ (Estimated)
☐ May return to work or school with restrictions (Date) _____ (Estimated)

Restrictions:

- ☐ No use of injured hand
☐ May use injured hand assisting on light tasks
☐ No work at above shoulder level with injured hand
☐ Anesthetic skin precautions: (Avoid hot/sharp objects)
☐ Avoid exposure to marked temperature changes (Extremes of hot or cold)
☒ Avoid lifting with injured hand more than: ☐ 5 lbs ☒ 10 lbs ☐ 20 lbs ☐ 50 lbs
☐ Must not operate dangerous equipment, including automobile:
 ☐ Until further evaluation ☐ If taking medication
☐ Avoid the following motions/conditions with the injured hand:
 ☐ Pushing ☐ Grasping ☐ Pulling ☐ Twisting ☐ Repetitive movement
 ☐ Climbing or unprotected heights ☐ Vibratory tools

Additional limitations:

- ☐ Keep dressing clean and dry
☐ Keep hand elevated
☐ Avoid skin irritants
☒ Must be allowed to wear splint or cast

- ☐ Diagnostic studies have been scheduled
☐ Surgery has been scheduled
☐ Patient was seen in the office today
☐ Next appointment: (Date) _____

(b) (6), (b) (7)(C)**(b) (6), (b) (7)(C)** 10/10/2016

If you have questions or comments about this patient's work status, please call the physician to discuss situation.
If above restrictions cannot be met, Patient may not return to work at this time.

EXHIBIT F



my**accommodation** Services

Fax: 1-206-946-7289

Email: accommodations@amazon.com

January 11, 2017

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

RE: Accommodation Case Closed, Case #: (b) (6), (b) (7)(C)

Dear (b) (6), (b) (7)(C)

This letter is in follow up to your request for a job accommodation which you initiated because of a health condition that you believe is impacting your ability to perform your job duties. Our records indicate you submitted your request on 7/24/2016.

In order for us to consider your request for accommodation, we must confirm you have a qualifying disability and because of that disability, you are unable to perform one or more of your essential job duties. In order for us to make this determination it requires your active participation and compliance with the following associate/employee responsibilities:

- 1) Your timely response and active participation in conversation(s) with us so we might better understand your needs;
- 2) If requested, your timely submission of medical documentation completed by your healthcare provider (outlining your abilities, restrictions and potential accommodation needs.)

As of the date of this letter you have not responded to either of the above noted responsibilities (you have not responded to our outreach attempts on 1/11/2017 and you have not submitted medical documentation since your last leave as accommodation approval which ended on 8/17/2016. Based on your lack of response, it is our assumption you are no longer requesting a job accommodation, as a result we do not regard you as being disabled and you are fully able to perform all your essential job duties.

Note: If you have been off work during this time, you are to return to work for your next scheduled shift or we will assume you are not returning and we will initiate a leave of absence on your behalf, if applicable. Eligibility for Leave of Absence is subject to the terms and conditions of the LOA policies which may include being in an eligible employee class status, time and service requirements and medical certification guidelines. Eligibility for leave is determined by the MyLeave team and is not guaranteed.

It is important to note that any lost time not covered by either an approved accommodation or Leave of Absence (written approval) is subject to the terms and conditions of the Attendance Guidelines as assessed and administered by Human Resources. If you were out of work during the accommodation process, you may be required to submit medical documentation certifying that you are able to return to work and perform the essential functions of your position. Your time off may be subject to the standard attendance policy.

If you disagree with the above findings or assessment, please contact me by the close of business 10 days from the date of this letter

(b) (6), (b) (7)(C) | Amazon

EXHIBIT G



April 6, 2017

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

[REDACTED]

Re: Leave of Absence Denial: Case #: (b) (6), (b) (7)(C)

Dear (b) (6), (b) (7)(C)

The notice you received which stated that your employment ended on (b) (6), (b) (7)(C) 2017 was sent in error and is rescinded. Your employment remains active.

Our records indicate you have been on a leave of absence since July 27, 2016. At this time, we want to notify you that any continued leave is unapproved and you are expected to return to work. You will furthermore be held accountable to Amazon's Attendance Policy, a copy of which is attached for your reference.

On file, we currently have you on a modified schedule you have been working when you were on site back in July 2016:

- Wednesday: 1:00PM to 5:00PM
- Thursday: 1:00PM to 5:00PM
- Friday: 1:00PM to 5:00PM
- Saturday: 07:30AM to 5:00PM

If the modified schedule you last worked is no longer requested, please discuss your requested schedule with (b) (6), (b) (7)(C) Interim Site HRBP.

Based on the modified work schedule we have on file, we expect you to return to work on **Wednesday, April 12, 2017**, unless you notify us that additional leave is requested and you provide medical documentation from your healthcare provider documenting the need for a leave of absence.

If you have any additional questions, please contact local HR CVG5-HR@amazon.com or email accommodations@amazon.com.

If we do not hear from you, I will close the active leave of absence file on this matter. Thank you for your attention to this letter.

Leave of Absence | Amazon

EXHIBIT H

From: (b) (6), (b) (7)(C) [mailto:(b) (6), (b) (7)(C)]
Sent: Monday, April 17, 2017 1:16 PM
To: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>
Subject: Re: Amazon Accommodations Request

Good Afternoon Amazon (b) (6), (b) (7)(C),

Thank you for your note, and your expressed interest in this dialogue. To date though your communication has not been constructive however.

WHEN AN EMPLOYEE IS INJURED ON THE JOB @ AMAZON, THE COMPANY HAS A RESPONSIBILITY, LEGAL RESPONSIBILITY TO THAT EMPLOYEE.

To hide from that responsibility is an unscrupulous business practice.

(b) (6), (b) (7)(C) you are engaged in unscrupulous business practices..

Please **re-familiarize** yourself with the company records on this, and the surgery that followed, and then communicate your recommendation for a fair resolution.

Sincerely,

(b) (6), (b) (7)(C)

On Mon, Apr 17, 2017 at 11:02 AM, (b) (6), (b) (7)(C) <[REDACTED]> wrote:

Hi (b) (6), (b) (7)(C),

I am familiar with your file. You were placed on a leave of absence, beginning on July 24, 2016, as an accommodation for your temporary disability. As you know from the communications Amazon sent last year, your workers' compensation claim was denied.

In line with company policy, your temporary leave of absence from July 24, 2016 through the present was unpaid.

We can engage in an interactive dialogue via email to the extent it is productive. If I feel that a phone call is necessary, I will let you know.

Please confirm whether you need an accommodation in order to return to work. If you do need an accommodation, then your medical provider's documentation from last year needs to be updated to describe the accommodation(s) you might need in order to perform your job. I will need your medical provider to complete the attached form by 4/24/2017. If you no longer need an accommodation in order to perform your job, then let's discuss your return-to-work date.

Best,

(b) (6), (b) (7)(C)

HR Services – (b) (6), (b) (7)(C)

CVG | LEX | CMH

[REDACTED]

amazon
HR Services
Leave of Absence & Accommodations

From: (b) (6), (b) (7)(C) [mailto:(b) (6), (b) (7)(C)]
Sent: Tuesday, April 11, 2017 5:15 PM
To: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>
Subject: Re: Amazon Accommodations Request

Good Afternoon Amazon (b) (6), (b) (7)(C) (b) (6), (b) (7)(C),

Thank you for your note, and your expressed interest in this dialogue. Let's keep our communication in writing. And let's begin with making sure that I am paid for my lost work @ Amazon due to my well documented on the job injury there at CVG5, *effective July 24, 2016.*

Please familiarize yourself with the company records on this, and the surgery that followed, and then communicate your recommendation for a fair resolution.

Sincerely,

(b) (6), (b) (7)(C)

On Tue, Apr 11, 2017 at 3:39 PM, (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)> wrote:

Greetings (b) (6), (b) (7)(C),

By way of introduction, my name is (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) with Amazon HR Services. My job is to assist Amazonians experiencing job difficulties due to a qualifying disability. It is my understanding that you would like to discuss the performance of your job duties because of a complaint related to your wrist.

I would like to schedule a time to call and speak with you. This interactive discussion will help me better understand your medical issue and your thoughts on possible accommodations to allow you to perform your

job. I will also be able to walk you through the process and discuss the documents for you and your healthcare provider to complete.

This discussion is one of the most important aspects as you and I work through your request and concerns; without it, I cannot accurately understand your needs and assist you to the best of my abilities. I have availability tomorrow, April 12, 2017 in the afternoon. I am also available Monday, April 17, 2017. I look forward to scheduling a time with you.

Very Best,

(b) (6), (b) (7)(C)

HR Services – (b) (6), (b) (7)(C)

CVG | LEX | CMH

 **amazon**
HR Services

(b) (4)

EXHIBIT I



April 21, 2017

VIA OVERNIGHT MAIL AND EMAIL

(b) (6), (b) (7)(C)

Re: Final Effort to Engage in Interactive Process

Dear (b) (6), (b) (7)(C)

I am in receipt of your most recent communication with (b) (6), (b) (7)(C), dated April 17, 2017, in which you repeat that you were injured on the job at Amazon and assert that Company has some legal responsibility to you. You also claim that you believe Amazon is engaging in “unscrupulous business practices.”

As you are aware, your claims regarding a work place injury have already been denied by the carrier and that issue has been addressed with you on multiple occasions. Also, given that Amazon has engaged in extensive efforts to try to address any work restrictions, and has continuously attempted to engage with you in an interactive, we are disappointed that you would allege that our practices are unscrupulous; the Company denies any such allegation.

Most recently, in response to our further attempts to engage in an interactive process, you have flatly refused. Please understand that Amazon is committed to complying with the Americans with Disabilities Act (“ADA”) and applicable state law and to making reasonable accommodations for individuals with covered disabilities that do not create an undue burden on the Company. However, in order to be entitled to protections under the ADA and state law, you also have obligations to cooperate in the interactive process.

You have now been out on a leave of absence since July 22, 2016. Because we cannot continue to engage in the interactive process without your cooperation, it is helpful for us to review the circumstances related to your absence. Essentially there have been three primary issues: (1) your claim for workers’ compensation; (2) your claim for unemployment; and (3) Amazon’s accommodation of your temporary disability with a leave of absence.

Workers' Compensation

- On approximately July 22, 2016, you notified Amazon that you suffered an alleged work injury to your left hand and wrist on or about April 6, 2016 (almost 4 months earlier).
- The same day, Amazon gave you the appropriate information for beginning the process of submitting a workers' compensation claim.
- Amazon's workers' compensation claims are administered by a third-party claims administrator, Sedgwick.
- Amazon's Safety Team reviewed your claims concerning your workplace injury. We looked at all available video footage from the dates and times of the alleged injury, and likewise interviewed coworkers and witnesses who would have been nearby on the dates and times of the alleged injury. Amazon's Safety Team did not agree that your injury happened as you claimed.
- Sedgwick received all the appropriate information from you and from Amazon regarding your workers' compensation claim.
- Sedgwick **denied** your workers' compensation claim and notified you of the denial on July 27, 2016.
- On August 4, 2016, as you are allowed to do, you requested to be allowed to seek a second opinion regarding your injury. You were responsible for seeking a second opinion by August 17, 2016. You did not submit anything by August 17, 2016 regarding your workers' compensation claim denial. The denial therefore became **final**.

Unemployment

- In August 2016, after you knew that your workers' compensation claim had been denied, you filed for unemployment through the State of Kentucky.
- Your claim for unemployment was denied on September 2, 2016, because you were ineligible for benefits since you were not unemployed. Indeed, you continue to be employed by Amazon at this time.
- You appealed the denial of unemployment benefits on September 8, 2016. The issue before the Division of Unemployment Insurance Appeals Branch Referee was: "Whether the claimant is on a voluntary leave of absence and is ineligible for benefits." (*Id.*)
- After recounting the factual background of your claims, the Referee detailed that "[t]he claimant informed the employer of [REDACTED] restrictions, and the employer, who had no work available within the restrictions, placed the claims on a medical leave of absence until

restrictions are lifted or until October 22, 2016, when the claimant's medical leave will end."

- Upholding the denial of unemployment benefits, the Referee found: "DECISION: The determination is affirmed and the claimant's ineligibility is extended to the week of September 24, 2016, and will continue so long as conditions remain substantially unchanged."

Extended Leave of Absence as an Accommodation

- On July 22, 2016, you submitted a note from a (b) (6), (b) (7)(C) that stated that you had the following work restrictions: "Lift no more than 20 pounds with the left hand (40 pounds total). Avoid grip and twist movements."
- On July 25, 2016, Amazon's Job Safety team reviewed your work restrictions in order to determine whether the Company could accommodate these restrictions with a light duty position.
- Based on your July 22, 2016 work restrictions as provided by your physician, you were fully restricted from: lifting more than 21 pounds, crawling, climbing ladders, doing "forceful grasping [or] turning such as using a packaging tape dispenser."
- Additionally, your physician indicated that you were limited in using your hand for repetitive motion, and limited in your ability to do simple grasping or turning, such as grasping a hand scanner for scanning packages.

Based on your restrictions, it was determined that you were unable to perform the essential functions of your position. In addition, the Job Safety team determined that there was no light duty position, or other available vacant position, that you could perform with the restrictions identified. Indeed, 80% of all the work done in the Sort Center involves picking up packages, scanning them, and then physically moving them to another location in the warehouse.

Since your work restrictions prevented you from working at that time, Amazon began the process of reviewing your eligibility for a leave of absence. At the time you began leave—July 24, 2016—Amazon also reviewed relevant criteria to determine if you qualified for leave under the Family and Medical Leave Act ("FMLA"). However, you had only worked for Amazon for approximately eight (8) months and had only worked 1006.63 hours. Under applicable law, an employee must work for (b) (6), employer for 12 months and a total of 1250 hours in order to be covered by the provisions of the FMLA. Accordingly, you received a letter notifying you that you did not qualify for FMLA leave on July 27, 2016. In addition, as a part time employee, you were not eligible for a personal leave of absence.

Nevertheless, given that your physician indicated that you had a temporary disability, Amazon offered you an unpaid leave of absence to allow you to retain your employment with the Company.

April 21, 2017

Page 4

The Accommodation team of Amazon determined that since your condition was indicated to be temporary, and despite that you were not eligible for FMLA and/or workers' compensation, the Company would grant you an unpaid leave, which was expected to run from July 27, 2016 through August 17, 2016. Thereafter, the following occurred:

- In connection with appealing the denial of your unemployment claim, you submitted another doctor's note around October 10, 2016. In this second note from a (b) (6), (b) (7)(C) of the Hand Surgery Specialists, your work restriction required that you avoid lifting more than 10 pounds (less weight than what you could previously lift).
- Amazon requested that you submit medical documentation explaining whether you needed continued leave on September 13, 2016, October 11, 2016, and November 4, 2016. You never responded to any of these requests.
- On January 11, 2017, (b) (6), (b) (7)(C), a (b) (6), (b) (7)(C) for the CVG Region, sent you a letter on behalf of Amazon's Accommodation team concerning the status of your almost six-month leave of absence. (b) (6), (b) (7)(C) reminded you that you had not submitted medical documentation since your last leave as accommodation approval which ended on 8/17/2016." You never responded to this letter.

As you know, you filed an unfair labor practice charge with the National Labor Relations Board on January 3, 2017 (Case No. 09-CA-190719). Amazon disputed the claims you alleged in connection with that charge, and the NLRB dismissed your charge, in its entirety, because it lacked merit.¹

You have now been out on a leave of absence for approximately 9 months. Most recently, Amazon has been trying to work with you over the past three weeks regarding whether you still need a leave of absence for a disability, or whether you are able to return to work, whether with or without reasonable accommodations. Rather than engaging in the interactive process, you have instead been solely focused on asserting a right to back pay for the period of your unpaid leave. Indeed, you have specifically refused to engage in the interactive process in email correspondence dated April 11, 2017 and April 17, 2017.

However, as set forth above, and as (b) (6), (b) (7)(C) has explained, your leave was properly designated as an unpaid leave and you have no legal claim to any back pay.

In view of all of the foregoing, please understand that if you continue to refuse to engage in the interactive process with us, we will understand that you will be unable to return to work and perform the essential functions of your position, whether with or without a reasonable accommodation, that you are otherwise not qualified for additional leave under the ADA and/or

¹ Notably, your second unfair labor practice charge (Case No. 09-CA-195142) was dismissed on April 17, 2017 in its entirety based on your failure to cooperate.

(b) (6), (b) (7)(C)

April 21, 2017

Page 5

applicable law and/or that you are refusing to return to work. Accordingly, we will have no alternative but to consider you to have voluntarily resigned your employment.

To be clear, if you fail to respond to this letter and engage in the interactive process, your employment will automatically be terminated effective Friday, (b) (6), (b) (7)(C) 2017. In that event, additional documentation regarding separation of your employment will be sent to you under separate cover.

We will look forward to hearing from you and engaging further in the interactive process.

Sincerely,

(b) (6), (b) (7)(C)

EXHIBIT J

This record was redacted in part when submitted by the Employer to the Regional Office during the investigation.

From: (b) (6), (b) (7)(C) [mailto:(b) (6), (b) (7)(C)]

Sent: Friday, April 28, 2017 12:44 AM

To: Bezos, Jeff <(b) (6), (b) (7)(C)>; (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>; (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>

Cc: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>; (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>

Subject: Re: (b) (6), (b) (7)(C) - Interactive Process Request

AND FOR THE RECORD: *I have been physically assaulted by two anti-labor contractors within the last year. This was reported to Law Enforcement. None of you should have any illusion about who the company is in bed with in this dispute. H*

On Tue, Apr 25, 2017 at 1:11 PM, (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)> wrote:

Good Afternoon Jeff Bezos & (b) (6), (b) (7)(C) & (b) (6), (b) (7)(C) [b] (b) (6), (b) (7)(C)

Dear Jeff I hope you are well, and that the health tips I sent you last year were useful.

Any assistance you can play in helping resolve these issues which are over a year old at this point, would be constructive. Your subordinate, (b) (6), (b) (7)(C) seems to be acting in bad faith & trying to force this into the legal realm.

If that is the future I would be within my rights to file suit against you personally with Service as Sheriffs Delivery.

...

WHEN AN EMPLOYEE IS INJURED ON THE JOB @ AMAZON, THE COMPANY HAS A RESPONSIBILITY, LEGAL RESPONSIBILITY TO THAT EMPLOYEE.

To hide from that responsibility is an unscrupulous business practice.

When I was employed @ Amazon I had a perfect attendance record; and I helped lead the effort to turn CVG5 around from being one of the worst performing to best performing of the regional sort centers.

...

On April 11, I received (b) (6), (b) (7)(C) note to work with me to find an accommodation for my work related injury @ Amazon in April of 2016. (b) (6), (b) (7)(C) and I have been communicating on that issue. Here is an excerpt:

"Thank you for your note, and your expressed interest in this dialogue. Let's keep our communication in writing. And let's begin with making sure that I am paid for my lost work @ Amazon due to my well documented on the job injury there at CVG5, effective July 24, 2016.

Please familiarize yourself with the company records on this, and the surgery that followed, and then communicate your recommendation for a fair resolution."

On April 21, I additionally received an additional note *out of the blue* from (b) (6), (b) (7)(C) on the same subject unfortunately filled with innuendo & misrepresentations. This letter represents the most recent engagement by (b) (6), (b) (7)(C) in a number of unscrupulous business practices related to this injury.

Addressing just a few of (b) (6), (b) (7)(C) false statements (see below) here in order to meet (b) (6) deadline of the May 5, the latest of many administrative burdens imposed on me by the company since my injury. (I would also point out that I have not been paid by Amazon in almost a year despite **WRITTEN** assurances by the company that I would receive payment while this was being resolved.)

1. (b) (6), (b) (7)(C) states in (b) (6) most recent letter, "On approximately July 22, 2016, you notified Amazon that you suffered an alleged work injury to your left hand and wrist on or about April 6, 2016 (almost 4 months earlier). **THIS INJURY WAS REPORTED TO AMCARE IN APRIL OF 2016 BUT THEY DID NOT CHOOSE TO DOCUMENT IT. ADDITIONALLY IT WAS TREATED BY AMCARE 8+ TIMES WITH ICE FROM APRIL UNTIL JULY 2016 & THE JOB WHERE THE INJURY OCCURRED WAS COMPLETELY REDESIGNED --for the company & (b) (6), (b) (7)(C) to claim otherwise in a number of government filings constitutes well documented fraud with an extensive paper trail.**
2. (b) (6), (b) (7)(C) in the same letter goes on to document that Amazon contested my unemployment claims to the KY State Unemployment Commission. (b) (6) makes the false claim that my benefits were denied by stating, "Upholding the denial of unemployment benefits, the Referee found: *"DECISION: The determination is affirmed and the claimant's ineligibility is extended to the week of September 24, 2016, and will continue so long as conditions remain substantially unchanged."* The truth of the matter, as (b) (6) well knows, is that I appealed the Referee decision (b) (6) documents and won the case. **Amazon lost this case, the final determination being that Amazon was responsible for creating my "Involuntary Unemployment."**
3. (b) (6), (b) (7)(C) makes the additional false claims that "Amazon requested that you submit medical documentation explaining whether you needed continued leave on September 13, 2016, October 11, 2016, and November 4, 2016. You never responded to any of these requests." **All of this documentation was provided & extensively documented throughout this process to multiple company representatives including with copies to amazon hr at: cvg5-hr@amazon.com.**
4. (b) (6), (b) (7)(C) makes a number of further assertions which are also inaccurate, **Regarding the NLRB I would point out that the company's NLRB violations are a substantial liability for Amazon.com** and go right through (b) (6), (b) (7)(C) office door. *And that they are on appeal & I have every confidence that we are going to win.*

(b) (6), (b) (7)(C), I FORMALLY REQUEST THAT YOU FIND A FAIR RESOLUTION TO THIS.

Sincerely,

(b) (6), (b) (7)(C)

On Fri, Apr 21, 2017 at 3:55 PM, (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)> wrote:

April 21, 2017

VIA OVERNIGHT MAIL AND EMAIL

(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

Re: Final Effort to Engage in Interactive Process

Dear (b) (6), (b) (7)(C)

I am in receipt of your most recent communication with (b) (6), (b) (7)(C), dated April 17, 2017, in which you repeat that you were injured on the job at Amazon and assert that Company has some legal responsibility to you. You also claim that you believe Amazon is engaging in “unscrupulous business practices.”

As you are aware, your claims regarding a work place injury have already been denied by the carrier

➤ On approximately July 22, 2016, you notified Amazon that you suffered an alleged work injury to your left hand and wrist on or about April 6, 2016 (almost 4 months earlier).

➤ Upholding the denial of unemployment benefits, the Referee found: “DECISION: The determination is affirmed and the claimant’s ineligibility is extended to the week of September 24, 2016, and will continue so long as conditions remain substantially unchanged.”

➤ On July 22, 2016, you submitted a note from a (b) (6), (b) (7)(C) that stated that you had the following work restrictions: “Lift no more than 20 pounds with the left hand (40 pounds total). Avoid grip and twist movements.”

➤ On July 25, 2016, Amazon’s Job Safety team reviewed your work restrictions in order to determine whether the Company could accommodate these restrictions with a light duty position.

- Based on your July 22, 2016 work restrictions as provided by your physician, you were fully restricted from: lifting more than 21 pounds, crawling, climbing ladders, doing “forceful grasping [or] turning such as using a packaging tape dispenser.”
- Additionally, your physician indicated that you were limited in using your hand for repetitive motion, and limited in your ability to do simple grasping or turning, such as grasping a hand scanner for scanning packages.

Based on your restrictions, it was determined that you were unable to perform the essential functions of your position. In addition, the Job Safety team determined that there was no light duty position, or other available vacant position, that you could perform with the restrictions identified. Indeed, 80% of all the work done in the Sort Center involves picking up packages, scanning them, and then physically moving them to another location in the warehouse.

Since your work restrictions prevented you from working at that time, Amazon began the process of reviewing your eligibility for a leave of absence. At the time you began leave—(b) (6), (b) (7)(C), 2016—Amazon also reviewed relevant criteria to determine if you qualified for leave under the Family and Medical Leave Act (“FMLA”). However, you had only worked for Amazon for approximately eight (8) months and had only worked 1006.63 hours. Under applicable law, an employee must work for (b) (6), (b) (7)(C) employer for 12 months and a total of 1250 hours in order to be covered by the provisions of the FMLA. Accordingly, you received a letter notifying you that you did not qualify for FMLA leave on July 27, 2016. In addition, as a part time employee, you were not eligible for a personal leave of absence.

Nevertheless, given that your physician indicated that you had a temporary disability, Amazon offered you an unpaid leave of absence to allow you to retain your employment with the Company.

The Accommodation team of Amazon determined that since your condition was indicated to be temporary, and despite that you were not eligible for FMLA and/or workers’ compensation, the Company would grant you an unpaid leave, which was expected to run from July 27, 2016 through August 17, 2016. Thereafter, the following occurred:

- In connection with appealing the denial of your unemployment claim, you submitted another doctor’s note around October 10, 2016. In this second note from a (b) (6), (b) (7)(C) of the Hand Surgery Specialists, your work restriction required that you avoid lifting more than 10 pounds (less weight than what you could previously lift).
- Amazon requested that you submit medical documentation explaining whether you needed continued leave on September 13, 2016, October 11, 2016, and November 4, 2016. You never responded to any of these requests.
- On January 11, 2017, (b) (6), (b) (7)(C), a (b) (6), (b) (7)(C) for the CVG Region, sent you a letter on behalf of Amazon’s Accommodation team concerning the status of your almost six-month leave of absence. (b) (6), (b) (7)(C) reminded you that you had not submitted medical documentation since your last leave as accommodation approval which ended on 8/17/2016.” You never responded to this letter.

As you know, you filed an unfair labor practice charge with the National Labor Relations Board on January 3, 2017 (Case No. 09-CA-190719).

We will look forward to hearing from you and engaging further in the interactive process.

Sincerely,

(b) (6), (b) (7)(C)

EXHIBIT K

Preview Team- This escalation is complete and the summary is ready for review. Please provide any feedback, if needed

Executive Summary:

Risk Assessment Color Code: **Green** – adequate site response

Issue: Other – Rebuttal to (b) (6), (b) (7)(C)

Root Cause: No Defects

CVG5 Associate (b) (6), (b) (7)(C) emailed Jeff Bezos on 25 April, 2017 and the case was assigned to the escalations team on 26 April, 2017. (b) (6), (b) (7)(C) complained that an (b) (6), (b) (7)(C) attempted to manipulate pending claims against Amazon by intentionally including false information in correspondence to (b) (6), (b) (7)(C). Additionally, (b) (6), (b) (7)(C) alleges that “anti-labor contractors” associated with Amazon physically battered (b) (6), (b) (7)(C) twice in the past year. The investigation found that CVG5 HR properly investigated (b) (6), (b) (7)(C) complaints of false information and battery, and determined they were without merit.

Background:

In July of 2016, (b) (6), (b) (7)(C) reported a workplace injury, which (b) (6) claimed occurred in April of 2016. (b) (6), (b) (7)(C) subsequently submitted a request for accommodations based on the April 2016 injury. CVG5 Accommodations concluded that (b) (6), (b) (7)(C) was unable to perform the essential functions of (b) (6) position. (b) (6), (b) (7)(C) is a class Q part-time employee. (b) (6) is not eligible for Family Medical Leave Act (FMLA), Worker’s Compensation leave or any unpaid leave of absence. CVG5 HR provided (b) (6), (b) (7)(C) a “Leave as an Accommodation,” so that (b) (6) could maintain (b) (6) employment while (b) (6) recovered. (b) (6), (b) (7)(C) subsequently filed for Kentucky Unemployment benefits, Worker’s Compensation benefits and filed an NLRB Unfair Labor Practice (ULP) charge against Amazon. (b) (6), (b) (7)(C) Unemployment and Worker’s Compensation claims were denied (the Unemployment Claim is pending a new hearing date) and the ULP charge is pending.

(b) (6), (b) (7)(C) wrote the (b) (6), (b) (7)(C) and asserted that (b) (6) was injured at work and Amazon had some legal responsibility for (b) (6), (b) (7)(C) injuries. The (b) (6), (b) (7)(C) wrote a response to (b) (6), (b) (7)(C) letter (Correspondence). (b) (6), (b) (7)(C) alleged the (b) (6), (b) (7)(C) made the following intentional false statements in the correspondence: (1) (b) (6), (b) (7)(C) first reported a workplace injury in July 2016 that allegedly occurred in April 2016; (2) the Kentucky State Unemployment Commission (Commission) denied (b) (6) unemployment insurance claim; (3) (b) (6), (b) (7)(C) failed to submit medical documentation to justify (b) (6) “Leave as an Accommodation” past August 2016, and (4) the RHRM made false assertions about other unspecified issues. In addition, (b) (6), (b) (7)(C) alleged that Amazon directed anti-labor contractors to physically attack (b) (6), (b) (7)(C). “Leave as an Accommodation” expired in August of 2016 and (b) (6), (b) (7)(C) has not returned to work. CVG5 HR is waiting until the conclusion of (b) (6), (b) (7)(C) pending claims against Amazon, before resolving (b) (6) employment status.

Analysis:

(b) (6), (b) (7)(C) partnered with CVG5 (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to investigate (b) (6), (b) (7)(C) allegations. (b) (6), (b) (7)(C) did not inform CVG5 HR of (b) (6) concerns regarding the Correspondence and the alleged attacks prior to escalating to Jeff Bezos.

The (b) (6), (b) (7)(C) statement that (b) (6), (b) (7)(C) first reported (b) (6) alleged workplace injury in July is supported by sufficient evidence. Neither CVG5 HR, Amcare, Worker’s Compensation, nor Accommodations, had any reports of injuries or medical treatment for (b) (6), (b) (7)(C) before July 2016.

The (b) (6), (b) (7)(C) statement that the Commission denied (b) (6), (b) (7)(C) Unemployment benefits is partially true. The Commission initially denied (b) (6), (b) (7)(C) Unemployment Claim. After an appeal and a remand for a new hearing, (b) (6), (b) (7)(C) Unemployment Claim is pending a new hearing date.

The (b) (6), (b) (7)(C) claim that (b) (6), (b) (7)(C) failed to provide requested medical documentation is supported by the evidence. Neither CVG5 HR, Amcare, Accommodations, nor Worker's Compensation has any record of receiving medical documentation to justify extending (b) (6), (b) (7)(C) "Leave as an Accommodation" beyond August of 2016.

(b) (6), (b) (7)(C) did not identify any other alleged false assertions made by the (b) (6), (b) (7)(C) in the Correspondence.

Finally, (b) (6), (b) (7)(C) did not provide any evidence to indicate that (b) (6) was physically attacked by anti-labor contractors or anyone else for that matter. Neither CVG5 HR or Loss Prevention nor Security has any reports of anyone attacking (b) (6), (b) (7)(C) for any reason.

(b) (6), (b) (7)(C) refused to cooperate with this investigation and did not provide any additional information to support (b) (6) claims.

CONNECTIONS SCORES, Engagement Index (last three months)
Not applicable – (b) (6), (b) (7)(C) has not worked since July 2016

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 27, 2017 11:49 PM
To: exescalations <(b) (6), (b) (7)(C)>
Cc: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>; (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>
Subject: FW: (b) (6), (b) (7)(C) - Interactive Process Request

Please note the continued contact here.

Thanks,

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) [mailto:(b) (6), (b) (7)(C)]
Sent: Thursday, April 27, 2017 9:44 PM
To: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>; (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>; (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>
Cc: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>; (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>
Subject: Re: (b) (6), (b) (7)(C) - Interactive Process Request

AND FOR THE RECORD: *I have been physically assaulted by **two** anti-labor contractors within the last year. This was reported to Law Enforcement. None of you should have any illusion about who the company is in bed with in this dispute. H*

On Tue, Apr 25, 2017 at 1:11 PM, (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)> wrote:

Good Afternoon Jeff Bezos & Amazon (b) (6), (b) (7)(C) & (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

Dear (b) (6), (b) (7)(C) I hope you are well, and that the health tips I sent you last year were useful.

Any assistance you can play in helping resolve these issues which are over a year old at this point, would be constructive. Your subordinate, (b) (6), (b) (7)(C) seems to be acting in bad faith & trying to force this into the legal realm.

If that is the future I would be within my rights to file suit against you personally with Service as Sheriffs Delivery.

WHEN AN EMPLOYEE IS INJURED ON THE JOB @ AMAZON, THE COMPANY HAS A RESPONSIBILITY, LEGAL RESPONSIBILITY TO THAT EMPLOYEE.

To hide from that responsibility is an unscrupulous business practice.

When I was employed @ Amazon I had a perfect attendance record; and I helped lead the effort to turn CVG5 around from being one of the worst performing to best performing of the regional sort centers.

On April 11, I received (b) (6), (b) (7)(C) note to work with me to find an accommodation for my work related injury @ Amazon in April of 2016. (b) (6) and I have been communicating on that issue. Here is an excerpt:

*"Thank you for your note, and your expressed interest in this dialogue. Let's keep our communication in writing. And let's begin with making sure that I am paid for my lost work @ Amazon due to my well documented on the job injury there at CVG5, effective **July 24, 2016.***

Please familiarize yourself with the company records on this, and the surgery that followed, and then communicate your recommendation for a fair resolution."

On April 21, I additionally received an additional note **out of the blue** from (b) (6), (b) (7)(C) on the same subject unfortunately filled with innuendo & misrepresentations. This letter represents the most recent engagement by (b) (6), (b) (7)(C) in a number of unscrupulous business practices related to this injury.

Addressing just a few of (b) (6), (b) (7)(C) **false statements** (see below) here in order to meet (b) (6) deadline of the May 5, the latest of many administrative burdens imposed on me by the company since my injury. *(I would also point out that I have not been paid by Amazon in almost a year despite **WRITTEN** assurances by the company that I would receive payment while this was being resolved.)*

1. (b) (6), (b) (7)(C) states in (b) (6) most recent letter, "On approximately July 22, 2016, you notified Amazon that you suffered an alleged work injury to your left hand and wrist on or about April 6, 2016 (almost 4 months earlier). **THIS INJURY WAS REPORTED TO AMCARE IN APRIL OF 2016 BUT THEY DID NOT CHOOSE TO DOCUMENT IT. ADDITIONALLY IT WAS TREATED BY AMCARE 8+ TIMES WITH ICE FROM APRIL UNTIL JULY 2016 & THE JOB WHERE THE INJURY OCCURRED WAS COMPLETELY REDESIGNED -- for the company & (b) (6), (b) (7)(C) to claim otherwise in a number of government filings constitutes well documented fraud with an extensive paper trail.**

2. (b) (6), (b) (7)(C), in the same letter goes on to document that Amazon contested my unemployment claims to the KY State Unemployment Commission. (b) (6) makes the false claim that my benefits were denied by stating, "Upholding the denial of unemployment benefits, the Referee found: "DECISION: The determination is affirmed and the claimant's ineligibility is extended to the week of September 24, 2016, and will continue so long as conditions remain substantially unchanged." The truth of the matter, as (b) (6) well knows, is that I appealed the Referee decision (b) (6) documents and won the case. Amazon lost this case, the final determination being that Amazon was responsible for creating my "Involuntary Unemployment."
3. (b) (6), (b) (7)(C) makes the additional false claims that "Amazon requested that you submit medical documentation explaining whether you needed continued leave on September 13, 2016, October 11, 2016, and November 4, 2016. You never responded to any of these requests." All of this documentation was provided & extensively documented throughout this process to multiple company representatives including with copies to amazon hr at: cv55-hr@amazon.com.
4. (b) (6), (b) (7)(C) makes a number of further assertions which are also inaccurate, Regarding the NLRB I would point out that the company's NLRB violations are a substantial liability for Amazon.com and go right through (b) (6) office door. And that they are on appeal & I have every confidence that we are going to win.

(b) (6), (b) (7)(C), I FORMALLY REQUEST THAT YOU FIND A FAIR RESOLUTION TO THIS.

Sincerely,

(b) (6), (b) (7)(C)

On Fri, Apr 21, 2017 at 3:55 PM, (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)> wrote:

April 21, 2017

VIA OVERNIGHT MAIL AND EMAIL

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Re: Final Effort to Engage in Interactive Process

Dear (b) (6), (b) (7)(C)

I am in receipt of your most recent communication with (b) (6), (b) (7)(C), dated April 17, 2017, in which you repeat that you were injured on the job at Amazon and assert that Company has some legal responsibility to you. You also claim that you believe Amazon is engaging in “unscrupulous business practices.”

As you are aware, your claims regarding a work place injury have already been denied by the carrier

➤ On approximately July 22, 2016, you notified Amazon that you suffered an alleged work injury to your left hand and wrist on or about April 6, 2016 (almost 4 months earlier).

➤ Upholding the denial of unemployment benefits, the Referee found: “DECISION: The determination is affirmed and the claimant’s ineligibility is extended to the week of September 24, 2016, and will continue so long as conditions remain substantially unchanged.”

➤ On July 22, 2016, you submitted a note from a (b) (6), (b) (7)(C) that stated that you had the following work restrictions: “Lift no more than 20 pounds with the left hand (40 pounds total). Avoid grip and twist movements.”

➤ On July 25, 2016, Amazon’s Job Safety team reviewed your work restrictions in order to determine whether the Company could accommodate these restrictions with a light duty position.

➤ Based on your July 22, 2016 work restrictions as provided by your physician, you were fully restricted from: lifting more than 21 pounds, crawling, climbing ladders, doing “forceful grasping [or] turning such as using a packaging tape dispenser.”

➤ Additionally, your physician indicated that you were limited in using your hand for repetitive motion, and limited in your ability to do simple grasping or turning, such as grasping a hand scanner for scanning packages.

Based on your restrictions, it was determined that you were unable to perform the essential functions of your position. In addition, the Job Safety team determined that there was no light duty position, or other available vacant position, that you could perform with the restrictions identified. Indeed, 80% of all the work done in the Sort Center involves picking up packages, scanning them, and then physically moving them to another location in the warehouse.

Since your work restrictions prevented you from working at that time, Amazon began the process of reviewing your eligibility for a leave of absence. At the time you began leave—July 24, 2016—Amazon also reviewed relevant criteria to determine if you qualified for leave under the Family and Medical Leave Act (“FMLA”). However, you had only worked for Amazon for approximately eight (8) months and had only worked 1006.63 hours. Under applicable law, an employee must work for (b) (6), employer for 12 months and a total of 1250 hours in order to be covered by the provisions of the FMLA. Accordingly, you received a letter notifying you that you did not qualify for FMLA leave on July 27, 2016. In addition, as a part time employee, you were not eligible for a personal leave of absence.

Nevertheless, given that your physician indicated that you had a temporary disability, Amazon offered you an unpaid leave of absence to allow you to retain your employment with the Company.

The Accommodation team of Amazon determined that since your condition was indicated to be temporary, and despite that you were not eligible for FMLA and/or workers' compensation, the Company would grant you an unpaid leave, which was expected to run from July 27, 2016 through August 17, 2016. Thereafter, the following occurred:

- In connection with appealing the denial of your unemployment claim, you submitted another doctor's note around October 10, 2016. In this second note from a (b) (6), (b) (7)(C) of the Hand Surgery Specialists, your work restriction required that you avoid lifting more than 10 pounds (less weight than what you could previously lift).
- Amazon requested that you submit medical documentation explaining whether you needed continued leave on September 13, 2016, October 11, 2016, and November 4, 2016. You never responded to any of these requests.
- On January 11, 2017, (b) (6), (b) (7)(C) for the CVG Region, sent you a letter on behalf of Amazon's Accommodation team concerning the status of your almost six-month leave of absence. (b) (6), (b) (7)(C) reminded you that you had not submitted medical documentation since your last leave as accommodation approval which ended on 8/17/2016." You never responded to this letter.

As you know, you filed an unfair labor practice charge with the National Labor Relations Board on January 3, 2017 (Case No. 09-CA-190719).

We will look forward to hearing from you and engaging further in the interactive process.

Sincerely,

(b) (6), (b) (7)(C)

EXHIBIT L

Education and Workforce Development Cabinet
Office of Employment and Training
Division of Unemployment Insurance Appeals Branch
275 East Main Street 2-EB
Frankfort KY 40621-0001



AD# (b) (6), (b) (7)(C) A
SS# [REDACTED]
LO# 05
Mailed 09-30-16

REFEREE DECISION

APPELLANT

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

APPELLEE

AMAZON.COM
C/O TALX
P O BOX 182366
COLUMBUS, OH 43218

EFFECTIVE DATE

08-07-16

APPEAL FILED

09-08-16

DATE OF HEARING

09-26-16

STATEMENT OF THE CASE: The claimant appealed a determination dated September 2, 2016, which held the claimant ineligible for benefits from August 7, 2016, through August 20, 2016, and thereafter until conditions substantially change on grounds the claimant was not unemployed.

ISSUE: Whether the claimant is on a voluntary leave of absence and is ineligible for benefits.

APPEARANCES: The claimant. Listed as a witness for the claimant but not testifying was (b) (6), (b) (7)(C), human resource assistant. The employer did not appear.

FINDINGS OF FACT: The claimant's non-union employment with the employer began in (b) (6), (b) (7)(C). The claimant was last assigned as a warehouse associate, working part time at a wage rate of \$12.50 per hour in Hebron, Boone County, Kentucky. The claimant last worked for the employer on July 24, 2016, when (b) (6) was placed on a medical leave of absence by the employer. The claimant's medical leave is scheduled to end on the third week of October 2016.

On April 16, 2016, the claimant injured (b) (6) hand at work. The claimant also was seen by (b) (6) primary care physician, who referred the claimant to a specialist. On June 22, 2016, the claimant was examined by the specialist, who diagnosed the claimant with an extensor tenosynovitis of the first extensor compartment tendon of the left wrist and treated the claimant with a corticosteroid injection.

The claimant continued working until July 24, 2016, when (b) (6) asked the employer to have a doctor examine (b) (6), (b) (7)(C) because of the pain the claimant was suffering from (b) (6) injury. The employer sent the claimant to a physician who diagnosed (b) (6), (b) (7)(C) with a wrist sprain and placed (b) (6), (b) (7)(C) on work restrictions of no lifting more than twenty pounds with (b) (6) left hand, no more than forty pounds total, and to avoid grip and twist motions. The claimant informed the employer of (b) (6) restrictions, and the employer, who had no work available within the restrictions, placed the claimant on a medical leave of absence until restrictions are lifted or until October 22, 2016, when the claimant's medical leave will end. The claimant's medical condition has not improved and the employer will not return the claimant to work as it cannot accommodate (b) (6) restrictions. The claimant filed a claim for Worker's Compensation, which has been denied.

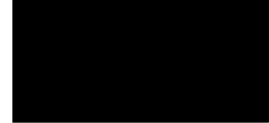
DECISION: The determination is affirmed and the claimant's ineligibility is extended to the week

ending September 24, 2016, and will continue so long as conditions remain substantially unchanged.

REASONS: KRS 341.350 requires that a claimant be "unemployed" as a condition of eligibility to receive benefits. The employment relationship continues while the claimant is on a medical leave of absence.

The claimant asked the employer to be sent to a doctor who placed the claimant on restrictions which the employer could not accommodate. As a result, the employer placed the claimant on a medical leave of absence until the claimant's work restrictions are lifted or until the third week of October 2016, which is when the claimant's leave of absence will end. Therefore, the claimant is on a medical leave of absence and not unemployed as of the effective date of the claim and is ineligible for benefits from August 7, 2016, through the week ending October 1, 2016, and will continue so long as conditions remain substantially unchanged. The claimant's medical leave is scheduled to end October 22, 2016.

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

UI Appeals Referee II

COPY TO: AMAZON.COM
AMAZON COM KYDC LLC

NOTE: A party adversely affected by this decision may appeal to the Unemployment Insurance Commission. KRS 341.430. The appeal must be in writing clearly stating the intention to appeal and delivered to a representative of the Division or mailed and postmarked within fifteen (15) days of the mailing date of this decision to the Kentucky Unemployment Insurance Commission, 275 East Main Street, 2-WF, Frankfort, Kentucky 40621. **This decision will become final unless appealed by 10/17/2016.** The mark made by a privately held postage meter shall not be considered in determining the date of receipt. 787 KAR 1:230. *YOU MAY ALSO FILE YOUR APPEAL TO THE COMMISSION BY E-MAIL AT THE ADDRESS DES.UIC@KY.GOV OR BY FAX AT 502-564-3562. PLEASE INCLUDE SOCIAL SECURITY NUMBER OF CLAIMANT WHEN YOU APPEAL.* SPECIAL NOTE TO CLAIMANTS: If benefits are denied by this decision, and further appeal to the Unemployment Insurance Commission is initiated, you should continue to claim benefits as directed by the local office. If the Commission's decision is in your favor, you will only be paid benefits that are properly claimed and for which you are otherwise eligible. Any party who failed to attend the scheduled hearing may, within seven (7) days from the date thereof, request rehearing which shall be granted upon a showing of good cause. 787 KAR 1:110 § 4(5). 13



(b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>

Formal Appeal of Determination in Amazon, 9-CA-201596

1 message

(b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>

Mon, Aug 28, 2017 at 9:05 AM

To: Clarke, Naima R. <Naima.Clarke@nlrb.gov>

DEAR NLRB,

I **formally appeal** the **decision** by Garey-Edward Lindsay, Regional 9 Director of the National Labor Relations Board **to dismiss** my case, **Amazon, 9-CA-201596**.

Appeal Items/Issue:

- This was an open and shut case, Amazon sent the employee, (b) (6), (b) (7)(C) a dismissal letter within days of an NLRB decision in their favor & then claimed it was a "Clerical Error," when this dismissal action was filed as an illegal labor practice in the case receiving a determination here & being appealed today (**Amazon, 9-CA-201596**).
- NLRB Region 9 Director Lindsay did not allow the agency to subpoena ANY evidence from Amazon, specifically Amazon Regional HR agent (b) (6), (b) (7)(C) communications to **any** of the agents involved in Amazon's illegal misconduct.
- It's disingenuous for Director Lindsay to base a decision on "lack of evidence," while being the very individual responsible for decisions denying the same Agency the ability to collect the very evidence required.
- Finally, at the time of this filing, Joseph Tansino, the Agent who investigated this case, has been put on leave and was not available to go over the case prior to the filing of this appeal.

Sincerely,

(b) (6), (b) (7)(C)

On Tue, Aug 15, 2017 at 2:29 PM, Clarke, Naima R. <Naima.Clarke@nlrb.gov> wrote:

Hello (b) (6), (b) (7)(C)

I am Joseph Tansino's supervisor. Joe is currently on leave, so I am contacting you in his absence. The Regional Director has made a determination in your case. I just attempted to call you to inform you of that determination, but I didn't get an answer or voice mail. Please give me a call at my direct dial below at your earliest convenience and I will inform you of the determination as well as the next steps in the processing of your case.

Sincerely,

Naima R. Clarke, Supervisory Attorney

National Labor Relations Board

Region 9

550 Main Street - Room 3003

Cincinnati, Ohio 45202

[\(513\) 684-3647](tel:(513)684-3647) Phone

[\(513\) 684-3946](tel:(513)684-3946) Fax

naima.clarke@nrlb.gov

Morgan Lewis

Michael E. Lignowski

Senior Attorney

+1.215.963.5455

michael.lignowski@morganlewis.com

October 3, 2017

VIA E-FILING AND FEDEX

Elicia L. Watts

Acting Director, Office of Appeals

National Labor Relations Board

1015 Half Street SE

Washington, D.C. 20570-0001

Re: Amazon.com Inc. (Case Nos. 09-CA-190719, 09-CA-195142, 09-CA-201596)

Dear Acting Director Watts:

On behalf of Amazon.com.kysc LLC ("Amazon" or the "Company"), we write in opposition to the three pending appeals filed by (b) (6), (b) (7)(C) ("Charging Party" or (b) (6), (b) (7)(C) on April 4, 2017, April 25, 2017, and August 28, 2017. The appeals challenge the Regional Director's dismissal decisions in the above-captioned cases.¹

In (b) (6), (b) (7)(C) first unfair labor practice charge (Case No. 09-CA-190719, hereinafter referred to as the "First Charge"), (b) (6) alleges that Amazon discriminated against (b) (6), (b) (7)(C) in violation of the National Labor Relations Act (the "Act") by discharging (b) (6), (b) (7)(C) in retaliation for (b) (6), (b) (7)(C) protected activities and complaints, as well as (b) (6), (b) (7)(C) prior union organization activities. The First Charge also alleges that Amazon interfered with, restrained and coerced (b) (6), (b) (7)(C) by engaging in surveillance or creating the impression of surveillance in response to protected complaints. Amazon submitted a detailed position statement in response to the First Charge on February 9, 2017. The Company's position statement gave Region 9 proper grounds to dismiss (b) (6), (b) (7)(C) First Charge on February 28, 2017. (b) (6), (b) (7)(C) appealed this dismissal on April 4, 2017.

Amazon did not file a position statement in response (b) (6), (b) (7)(C) second unfair labor practice charge (Case No. 09-CA-195142, hereinafter referred to as the "Second Charge") because the Region dismissed the Second Charge on April 17, 2017, prior to issuing a request for evidence. (b) (6), (b) (7)(C) Second Charge was dismissed based on (b) (6), (b) (7)(C) failure to cooperate in the investigation of (b) (6), (b) (7)(C) claims. (b) (6), (b) (7)(C) appealed this dismissal on April

¹ The Company obtained two of Charging Party's appeal submissions on June 22, 2017 and September 21, 2017, in response to FOIA requests.

Morgan, Lewis & Bockius LLP

1701 Market Street
Philadelphia, PA 19103-2921
United States

T +1.215.963.5000
F +1.215.963.5001

25, 2017. Counsel for Amazon sought a copy of (b) (6), (b) (7)(C) appeal of the Second Charge but counsel was notified that (b) (6), (b) (7)(C) did not file a substantive appeal.

(b) (6), (b) (7)(C) third unfair labor practice charge alleges that the Company violated 8(a)(1) and 8(a)(4) of the Act by discharging (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) 2017 because (b) (6), (b) (7)(C) filed charges or cooperated with the NLRB, and by disciplining or retaliating against (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C) 2017 by withholding “medical injury compensation” because (b) (6), (b) (7)(C) filed charges and/or cooperated with the NLRB (Case No. 09-CA-201596, hereinafter referred to as the “Third Charge”).

Concerning the Third Charge, the Company’s detailed position statement submitted to the Region on August 23, 2017, gave Region 9 proper grounds to dismiss the charge alleging Amazon subjected (b) (6), (b) (7)(C) to discriminatory discipline and discharge. (b) (6), (b) (7)(C) three appeals are substantively related and all three lack any merit. For the reasons set forth below, (b) (6), (b) (7)(C) appeals should be denied.

I. (b) (6), (b) (7)(C) APPEAL OF THE DISMISSAL OF (b) (6), (b) (7)(C) THIRD CHARGE SHOULD BE DENIED

(b) (6), (b) (7)(C) most recent appeal of the dismissal of (b) (6), (b) (7)(C) Third Charge should be denied. As Amazon demonstrated in its position statement, (b) (6), (b) (7)(C) workers’ compensation claim was properly denied and (b) (6), (b) (7)(C) 2017 termination notice was issued in error and promptly rescinded. Further, none of the alleged unlawful conduct was in retaliation or response to (b) (6), (b) (7)(C) filing unfair labor practice charges or cooperating with the NLRB. The Region considered all relevant evidence in this case and found that Amazon did not violate the Act.

A. The Region Properly Considered And Weighed The Evidence.

(b) (6), (b) (7)(C) appeal should be denied because the Region properly considered all relevant evidence concerning the Third Charge. (b) (6), (b) (7)(C) does not and cannot dispute that the Region considered evidence in this case, but (b) (6), (b) (7)(C) argues that the dismissal should be overturned because the Region did not issue evidentiary subpoenas. (b) (6), (b) (7)(C) appeal email of August 28 argues that “NLRB Region 9 Director Lindsay did not allow the agency to subpoena ANY evidence from Amazon, specifically [REDACTED] communications to any of the agents involved in Amazon’s illegal misconduct. It’s disingenuous for Director Lindsay to base a decision on ‘lack of evidence’ while being the individual responsible for decisions denying the same Agency the ability to collect the very evidence required.” (Appeal, p. 1.) (Emphasis in original.)

In dismissing (b) (6), (b) (7)(C) Third Charge, the Region considered all relevant evidence cooperatively and promptly provided by the Company during the Region’s investigation.

Amazon cooperated with the Region in all respects and provided the Region with an extensive position statement and several accompanying exhibits supporting the Company's position. The NLRB Casehandling Manual provides that "[i]nvestigative subpoenas [] are no substitute for a promptly initiated, dogged, and thorough pursuit of relevant evidence from cooperative sources." Sec. 11770. Evidentiary subpoenas were not needed to investigate this matter as the Region was able to obtain all relevant evidence directly from Amazon.

Further, (b) (6), (b) (7)(C) cannot *demand* that the Regional Director issue investigative subpoenas. The Regional Director has discretion to decide whether to issue investigative subpoenas. The NLRB Casehandling Manual provides that regional directors have "full discretion to issue precomplaint investigative subpoenas *ad testificandum* and *duces tecum* seeking evidence from parties and third party witnesses whenever the evidence sought would materially aid in the determination [to issue the complaint] and whenever such evidence cannot be obtained by reasonable voluntary means." Sec. 11770.2, *see also NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005, 1008 (9th Cir. 1996).

Here, the Region initiated a prompt and thorough investigation and the Company fully cooperated. In the Region's August 22, 2017 dismissal letter, the Region outlined evidence considered in connection with the dismissal, including the fact that "the evidence failed to establish any connection between your charge filing activities and the termination letter that you received from the Employer. Moreover, the evidence established that the Employer has not terminated your employment, but rather the Employer mistakenly issued you the termination letter, which it subsequently rescinded, due to an admitted clerical error." (Dismissal Ltr., Case No. 09-CA-201596, 8/22/2017.) Amazon did rescind (b) (6), (b) (7)(C) termination and (b) (6) does not and cannot dispute this fact.

Finally, concerning (b) (6), (b) (7)(C) claim that Amazon denied (b) (6), (b) (7)(C) "medical injury compensation" and that this denial was based on (b) (6) previously filed charges, the Regional Director correctly found that "the denial of your claim for medical injury compensation, i.e., your workers' compensation claim, predated any charge that you filed with the Board. Thus, the evidence failed to establish any correlation between the Employer's denial of your claim and your charge filing activities." (Dismissal Ltr., Case No. 09-CA-201596, 8/22/2017.) (b) (6), (b) (7)(C) cannot dispute the fact that Amazon's third party workers' compensation claims administrator denied (b) (6) workers' compensation claim on July 27, 2016, months before (b) (6) filed (b) (6) First Charge on January 3, 2017.

It is clear that the Region appropriately weighed and considered the evidence, determined that Amazon's cooperation in the investigation precluded the need for investigative subpoenas, and the Region found that Amazon's conduct did not violate the Act. (b) (6), (b) (7)(C) may feel the Region should have investigated the case differently, but that is not a ground for appeal.

B. (b) (6), (b) (7)(C) Appeal Fails Because It Relies On Irrelevant And Incorrect Assertions In An Attempt To Distract From The Fact That Amazon's Conduct Was Lawful.

(b) (6), (b) (7)(C) asserts that this was an “open and shut case” because Amazon sent (b) (6), (b) (7)(C) a termination letter shortly after (b) (6), (b) (7)(C) First Charge was dismissed. (Appeal, p. 1.) In fact, (b) (6), (b) (7)(C) alleged that (b) (6), (b) (7)(C) was subjected to a discriminatory termination on (b) (6), (b) (7)(C) 2017 in both (b) (6), (b) (7)(C) Second and Third Charges, both of which the Board has dismissed and both of which are under appeal. In its position statement filed in response to (b) (6), (b) (7)(C) Third Charge, Amazon explained that (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) termination notice was issued in error because Amazon’s internal human resources database incorrectly failed to list (b) (6), (b) (7)(C) as “on leave” and (b) (6), (b) (7)(C) failed to respond to a human resources representative who asked (b) (6), (b) (7)(C) when (b) (6), (b) (7)(C) planned to return to work. Based on (b) (6), (b) (7)(C) failure to respond to the correspondence regarding whether (b) (6), (b) (7)(C) could return to work, the human resources representative processed (b) (6), (b) (7)(C) termination as job abandonment. (See Amazon Pos. Stmt., Sect. II(D), 8/23/2017.) As soon as Amazon’s human resources management team discovered that the erroneous termination letter had been issued, (b) (6), (b) (7)(C) was promptly reinstated. (b) (6), (b) (7)(C) cannot dispute this.

(b) (6), (b) (7)(C) claim that Joseph Tansino, the Agent assigned to investigate this case, was “put on leave and was not available to go over the case prior to the filing of this appeal” is wholly irrelevant. Whatever the reasons for Mr. Tansino’s leave, those reasons have no bearing on whether the dismissal of (b) (6), (b) (7)(C) Third Charge was proper. (b) (6), (b) (7)(C) cannot point to any evidence that disputes that (b) (6), (b) (7)(C) termination was rescinded, (b) (6), (b) (7)(C) was reinstated, and that (b) (6), (b) (7)(C) workers’ compensation claim was denied many months prior to the filing of (b) (6), (b) (7)(C) first unfair labor practice charge. The Region’s findings are unassailable.

While (b) (6), (b) (7)(C) clearly disagrees with the Region’s decision to dismiss (b) (6), (b) (7)(C) Third Charge, disagreement does not change the outcome of (b) (6), (b) (7)(C) case. (b) (6), (b) (7)(C) disagreement does not provide grounds for reversing the Regional Director.

II. (b) (6), (b) (7)(C) APPEALS OF THE DISMISSALS OF (b) (6), (b) (7)(C) FIRST AND SECOND CHARGES SHOULD ALSO BE DENIED

In addition to (b) (6), (b) (7)(C) most recently filed appeal of the dismissal of (b) (6), (b) (7)(C) Third Charge, (b) (6), (b) (7)(C) has filed two appeals concerning the dismissals of (b) (6), (b) (7)(C) First and Second Charges, both of which have been pending for months. Both of these appeals should be denied as well.

A. **(b) (6), (b) (7)(C) Appeal Of The Dismissal Of (b) (6), (b) (7)(C) First Charge Should Be Denied.**

(b) (6), (b) (7)(C) appeal of the dismissal of (b) (6), (b) (7)(C) First Charge has been pending for nearly six months and should be denied. As Amazon demonstrated in its position statement submitted on February 9, 2017, (b) (6), (b) (7)(C) was not discharged in retaliation for (b) (6), (b) (7)(C) alleged protected concerted activity or prior union organization activities, and Amazon did not engage in surveillance or create the impression of surveillance in response to (b) (6), (b) (7)(C) complaints.

In dismissing (b) (6), (b) (7)(C) First Charge, the Region considered all relevant evidence and found that Amazon did not violate the Act. Amazon submitted an 18-page position statement, along with 62 pages of exhibits, detailing how (b) (6), (b) (7)(C) was placed on a medical leave as an accommodation for (b) (6), (b) (7)(C) injury, and (b) (6), (b) (7)(C) was not retaliated against in any way.

After considered this evidence, the Region's dismissal letter found that "[t]he evidence established [] that you were not discharged. Rather, the Employer placed you on a medical leave of absence for reasons that were unrelated to any protected activities. In this regard, the evidence failed to establish that the Employer knew about your past union activities while working for a different employer. Additionally, although your complaints concerned terms and conditions of employment, they were not made in concert with or on behalf of your co-workers and, thus, did not constitute group activity protected by the Act. In any event, the investigation did not disclose that the Employer was hostile toward such complaints. Finally, the investigation did not disclose any evidence that the Employer unlawfully surveilled you or watched you more closely." (Dismissal Ltr., Case No. 09-CA-190719, 2/28/2017.)

(b) (6), (b) (7)(C) cannot dispute that (b) (6), (b) (7)(C) was placed on medical leave as of July 24, 2016 and that this was an accommodation for (b) (6), (b) (7)(C) temporary disability. (b) (6), (b) (7)(C) has no evidence that Amazon knew about (b) (6), (b) (7)(C) previous union activities. Further, (b) (6), (b) (7)(C) cannot dispute that Amazon was engaged in productivity tracking and the productivity monitoring conducted was not surveillance of (b) (6), (b) (7)(C) and had nothing to do with (b) (6), (b) (7)(C) alleged protected concerted activity. (b) (6), (b) (7)(C) appeal of the dismissal of (b) (6), (b) (7)(C) First Charge should be denied.

B. **(b) (6), (b) (7)(C) Appeal Of The Dismissal Of (b) (6), (b) (7)(C) Second Charge Should Be Denied.**

(b) (6), (b) (7)(C) appeal of the dismissal of (b) (6), (b) (7)(C) Second Charge is wholly baseless. (b) (6), (b) (7)(C) filed (b) (6), (b) (7)(C) Second Charge on March 20, 2017, claiming that (b) (6), (b) (7)(C) was terminated on (b) (6), (b) (7)(C) 2017 for joining or supporting a labor union in order to discourage union

Elicia L. Watts
October 3, 2017
Case No. 09-CA-201596
Page 6

activities and/or membership, because (b) (6) engaged in protected concerted activity and in retaliation for filing (b) (6), First Charge. The “termination” alleged in (b) (6), Second Charge is the same “termination” at issue in the Third Charge, that is, the erroneously issued termination notice based on (b) (6), (b) (7)(C) failure to respond to the human resources representative who asked when (b) (6) would be returning to work. (See Sect. I(B), above.)

(b) (6), (b) (7)(C) Second Charge was dismissed based on (b) (6), complete failure to cooperate with the Board’s investigation into (b) (6), claims. In fact, because (b) (6), (b) (7)(C) refused to cooperate with the Board, Amazon was never even issued a request for evidence. (b) (6), (b) (7)(C) appealed the dismissal of (b) (6), Second Charge on April 25, 2017. Counsel for Amazon submitted a FOIA request in order to learn (b) (6), (b) (7)(C) basis for appealing the dismissal of (b) (6), Second Charge, and the Board conveyed that while (b) (6), (b) (7)(C) appealed the dismissal of (b) (6), Second Charge, (b) (6), failed to file a substantive appeal and provided no basis for overturning the dismissal. Then, on June 28, (b) (6), (b) (7)(C) filed (b) (6), Third Charge, which relies on the same set of underlying facts and argues that the (b) (6), (b) (7)(C) termination was retaliatory. (b) (6), (b) (7)(C) appeal of the dismissal of (b) (6), Second Charge is completely baseless and should be denied.

III. CONCLUSION

For the reasons discussed herein, the Region’s dismissals of all three of (b) (6), (b) (7)(C) charges were proper and all three of (b) (6), pending appeals should be denied.

Please let us know if the Office of Appeals has further questions or needs additional information to complete its review of (b) (6), (b) (7)(C) appeals.

Sincerely,

/s/ Michael E. Lignowski

Joseph C. Ragaglia
Michael E. Lignowski
Marina C. Gruber
Counsel for Amazon.com Inc.

cc: Garey Edward Lindsay, Regional Director, Region 9



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

November 15, 2017

(b) (6), (b) (7)(C)

Re: Amazon.Com
Case 09-CA-201596

Dear (b) (6), (b) (7)(C)

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered. You raise no new issue that the Regional Director had not considered previously which requires reversal of (b) (6), (b) (7)(C) decision. We agree with the Regional Director's decision and deny your appeal substantially for the reasons in (b) (6), (b) (7)(C) letter of August 22, 2017.

You allege that the Regional Director did not allow the agency to subpoena any evidence from your Employer. Pursuant to the Agency's policies and procedures, investigative subpoenas are utilized responsibly to make available to the Regional Director evidence necessary for deciding whether a complaint should issue. Section 11770 of the NLRB's Case Handling Manual (<https://www.nlr.gov/reports-guidance/manuals>) states that Regional Directors have full discretion to issue pre-complaint investigative subpoenas seeking evidence from parties whenever the evidence sought would materially aid the investigation and whenever such evidence cannot be obtained by reasonable voluntary means. There is no right to an investigative subpoena available to parties other than the General Counsel. In your case, investigative subpoenas were not needed because the evidence voluntarily submitted by both parties was enough to make a determination that the charge should be dismissed. Furthermore, Regional Offices have no obligation to contact witnesses who will present only duplicative evidence.

You also indicated that at the time of the filing of your appeal, the Board agent who investigated your case was on leave and not available to go over the case in order to prepare an appeal of the Regional Director's decision. By the time your appeal was filed, the Regional Director had already decided how to proceed with your case. The fact that the Board agent who investigated your charge was on leave at the time of the filing of your appeal is irrelevant to the decision making process of the Regional Director. Moreover, the Regional Director's dismissal letter provided all the information on how to appeal the decision.

Lastly, inasmuch as you are alleging that, the Regional Office conducted an inadequate investigation, our review of the investigatory files shows that the Regional Office conducted an appropriate investigation in accordance with the Agency's policies and procedures. The Regional

Director properly based the dismissal on the evidence presented by the parties and the case law. Accordingly, further proceedings are unwarranted.

Sincerely,

Jennifer A. Abruzzo
Acting General Counsel



By:

Mark E. Arbesfeld, Acting Director
Office of Appeals

cc: GAREY EDWARD LINDSAY
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INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**Case
09-CA-208929Date Filed
October 30, 2017**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHTa. Name of Employer
AMAZON.COMb. Tel. No.
(206) 266-1000

c. Cell No.

f. Fax No.

d. Address (Street, city, state, and ZIP code)

410 Terry Ave N
WA Seattle 98109-_____

e. Employer Representative

Jeff Bezos
CEO

g. e-Mail

jeff@amazon.com

h. Number of workers employed
2000i. Type of Establishment (factory, mine, wholesaler, etc.)
Transportationj. Identify principal product or service
Internet Sales

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 3, 4 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

Title:

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No.
(b) (6), (b) (7)(C)

4c. Cell No.

4d. Fax No.

4e. e-Mail

(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Title:

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Tel. No.

(b) (6), (b) (7)(C)

Office, if any, Cell No.

Fax No.

e-Mail

(b) (6), (b) (7)(C)

Address (b) (6), (b) (7)(C)

(date)

10/29/2017 21:52:11

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

RECEIVED NLRB REGION 9

2017 OCT 30 AM 11:06

CINCINNATI, OH

Basis of the Charge

8(a)(3)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) joined or supported a labor organization and in order to discourage union activities and/or membership.

Name of employee discharged	Approximate date of discharge
(b) (6), (b) (7)(C)	October -- (b) (6), (b) (7)(C) 2017

8(a)(4)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) filed charges or cooperated with the NLRB.

Name of employee discharged	Approximate date of discharge
(b) (6), (b) (7)(C)	October -- (b) (6), (b) (7)(C) 2017

8(a)(3)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, protesting terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Threats of Termination & Termination	(b) (6), (b) (7)(C) 2017

8(a)(4)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) filed charges or cooperated with the NLRB.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Threats of Termination & Termination	(b) (6), (b) (7)(C) 2017

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2017 OCT 30 AM 11:06
CINCINNATI, OH

Morgan Lewis

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December 12, 2017

ELECTRONICALLY FILED

Joseph F. Tansino
Field Attorney
National Labor Relations Board, Region 9
John Weld Peck Federal Building
550 Main Street, Room 3003
Cincinnati, OH 45202-3271

Re: Amazon.com Inc. (Case No. 09-CA-208929 – (b) (6), (b) (7)(C))

Dear Mr. Tansino:

Amazon.com.kysc LLC, (“Amazon” or the “Company”) provides this position statement in response to the above-referenced charge filed by (b) (6), (b) (7)(C). The Company understands (b) (6), (b) (7)(C) to allege that Amazon violated Sections 8(a)(1), (3) and (4) of the National Labor Relations Act (“the Act”) by terminating (b) (6), (b) (7)(C) employment on November 15, 2017. These allegations are entirely meritless.

Including the instant charge, (b) (6), (b) (7)(C) has filed *four separate unfair labor practice charges arising out of the same set of facts*. Specifically, (b) (6), (b) (7)(C) dispute with Amazon stems from the fact that (b) (6), (b) (7)(C) claimed (b) (6), (b) (7)(C) suffered a workplace injury in April of 2016 that (b) (6), (b) (7)(C) reported to the Company in July of 2016. Amazon has attempted to work with (b) (6), (b) (7)(C) on numerous occasions, as outlined below and supported by substantial written correspondence, in order to understand whether (b) (6), (b) (7)(C) has a continuing disability or can return to work. (b) (6), (b) (7)(C) has inexplicably refused Amazon’s efforts to engage in the interactive process again and again.

(b) (6), (b) (7)(C) alleges numerous claims against the Company, none of which have any bearing on whether (b) (6), (b) (7)(C) was subjected to conduct that violated the Act. As detailed fully in the Company’s position statements submitted in connection with Case Nos. 09-CA-190719 and 09-CA-201596, (b) (6), (b) (7)(C) submitted information from (b) (6), (b) (7)(C) medical provider(s) detailing (b) (6), (b) (7)(C) need for an accommodation in connection with (b) (6), (b) (7)(C) temporary disability. (b) (6), (b) (7)(C)

DB1/ 94758661.1

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(b) (6), (b) (7)(C) was granted a temporary leave of absence as an accommodation for (b) (6), (b) (7)(C) disability beginning in July 2016. (b) (6), (b) (7)(C) expected to run through October 2016, but was subsequently extended. Beginning in January 2017, Amazon repeatedly attempted to engage in the interactive process with (b) (6), (b) (7)(C) to discuss whether (b) (6), (b) (7)(C) still had a temporary disability for which (b) (6), (b) (7)(C) requested an accommodation. Alternatively, the Company wanted to know whether (b) (6), (b) (7)(C) was able to return to work.

As detailed more fully below, from January 2017 through November 2017, (b) (6), (b) (7)(C) refused to engage in the interactive process with Amazon, refused to provide information to the Company as to whether (b) (6), (b) (7)(C) needed a continuing accommodation, and refused to return to work. At the time of (b) (6), (b) (7)(C) termination on November 15, 2017, (b) (6), (b) (7)(C) had not performed any work for almost 16 months. Further, (b) (6), (b) (7)(C) had not provided Amazon with any information from (b) (6), (b) (7)(C) medical providers since October 2016, despite numerous attempts from the Company to obtain information concerning (b) (6), (b) (7)(C) possible need for further accommodation.

Amazon did not terminate (b) (6), (b) (7)(C) because of the Office of Appeals' decision to uphold the dismissals of (b) (6), (b) (7)(C) three previous unfair labor practice charges.¹ Beginning on January 11, 2017, and on multiple occasions thereafter, (b) (6), (b) (7)(C) was advised that (b) (6), (b) (7)(C) needed to provide medical documentation substantiating whether (b) (6), (b) (7)(C) had a continuing disability. (b) (6), (b) (7)(C) was also advised that (b) (6), (b) (7)(C) needed to engage in the interactive process to discuss reasonable accommodations. (b) (6), (b) (7)(C) was notified that if (b) (6), (b) (7)(C) failed to meet these requests, (b) (6), (b) (7)(C) would be considered to be absent from work and subject to the Company's Attendance Policy. The Company attempted to engage in the interactive process with (b) (6), (b) (7)(C) over the past 11 months. However, (b) (6), (b) (7)(C) has refused to discuss whether (b) (6), (b) (7)(C) has a continuing disability, and (b) (6), (b) (7)(C) has refused to return work despite multiple requests that (b) (6), (b) (7)(C) do so.

After months of (b) (6), (b) (7)(C) stonewalling Amazon's human resources and accommodation personnel, Amazon notified (b) (6), (b) (7)(C) on October 5, 2017 that (b) (6), (b) (7)(C) was expected to cooperate with (b) (6), (b) (7)(C), the Company's (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) was also notified that if (b) (6), (b) (7)(C) did not wish to engage in the interactive process, (b) (6), (b) (7)(C) was expected to return to work on October 6, 2017. (b) (6), (b) (7)(C) was again notified that if (b) (6), (b) (7)(C) failed to work, (b) (6), (b) (7)(C) Unpaid Time ("UPT") bank would be depleted and (b) (6), (b) (7)(C) would be subject to termination in accordance with the Company's Attendance Policy. (b) (6), (b) (7)(C) ignored this admonition, and on November 1, 2017, (b) (6), (b) (7)(C) was notified that (b) (6), (b) (7)(C) was subject to termination if (b) (6), (b) (7)(C) consumed all of (b) (6), (b) (7)(C) UPT. Instead of advising whether (b) (6), (b) (7)(C) would return to

¹ Case No. 09-CA-190719 was dismissed by the Region on February 28, 2017, and (b) (6), (b) (7)(C) appealed on April 4, 2017. Case No. 09-CA-195142 was dismissed by the Region on April 17, 2017 and appealed on April 25, 2017. Case No. 09-CA-201596 was dismissed by the Region on August 22, 2017 and appealed on August 31, 2017.

work, (b) (6), (b) (7)(C) told (b) (6), (b) (7)(C) (the (b) (6), (b) (7)(C) for CVG5) that (b) (6), (b) (7)(C) was engaging in “unscrupulous business practices.” When (b) (6), (b) (7)(C) UPT bank reached zero hours, the Company waited an additional three days for (b) (6), (b) (7)(C) to return to work (as is the Company’s standard practice), and then (b) (6), (b) (7)(C) was terminated effective (b) (6), (b) (7)(C) 2017.

The decision to terminate (b) (6), (b) (7)(C) was made independently from the decision of the Office of Appeals to deny (b) (6), (b) (7)(C) three appeals. In fact, the letter advising (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) termination was sent out prior to Amazon receiving notice from the Office of Appeals concerning the three appeals.

Amazon’s conduct was entirely lawful and had absolutely nothing to do with any alleged protected conduct.

The charge should be dismissed, absent withdrawal.

RELEVANT SUPPLEMENTAL FACTUAL BACKGROUND²

I. AMAZON’S REPEATED ATTEMPTS TO ENGAGE IN THE INTERACTIVE PROCESS WITH (b) (6), (b) (7)(C) ARE REJECTED.

Amazon has made repeated efforts to advise (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) obligations, to engage in the interactive process, and to determine if (b) (6), (b) (7)(C) would return to work. (b) (6), (b) (7)(C) rejected all of the Company’s efforts.

On January 11, 2017, (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) for the CVG Region, sent (b) (6), (b) (7)(C) a letter inquiring as to (b) (6), (b) (7)(C) need for a continuing accommodation since (b) (6), (b) (7)(C) had already been on leave for nearly six months and the Company had not received an updated medical provider form. (b) (6), (b) (7)(C) was advised that time not worked for which no medical documentation is provided may be subject to the standard attendance policy. (**Exhibit A – Accommodation Case Letter**, dated January 11, 2017.)

On April 6, 2017, Amazon notified (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) previous termination notice was sent in error and is rescinded.³ (b) (6), (b) (7)(C) was advised that any continued leave was unapproved and (b) (6), (b) (7)(C) was expected to return to work. (b) (6), (b) (7)(C) schedule was included in the letter and (b) (6), (b) (7)(C) was requested to return to work on April 12, 2017. (b) (6), (b) (7)(C) failed to return to work. (**Exhibit B – Letter to (b) (6), (b) (7)(C)**, dated April 6, 2017.)

² For a full discussion of the underlying facts of (b) (6), (b) (7)(C) employment, please review the Company’s lengthy position statements submitted in connection with Case Nos. 09-CA-190719 and 09-CA-201596.

³ For a full discussion of this situation, please see Section II(D) of the Company’s August 23, 2017 position statement.

On April 11, 2017, (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) reached out to (b) (6), (b) (7)(C) to attempt to engage in the interactive process and determine whether (b) (6), (b) (7)(C) needed a continuing accommodation and/or leave. (b) (6), (b) (7)(C) refused to participate in the interactive process and demanded payment for the time (b) (6), (b) (7)(C) had been on leave as an accommodation for (b) (6), (b) (7)(C) temporary disability.

On April 17, 2017, (b) (6), (b) (7)(C) advised (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) leave was unpaid. (b) (6), (b) (7)(C) was also advised that (b) (6), (b) (7)(C) needed to submit an updated medical provider certification if (b) (6), (b) (7)(C) still needed an accommodation. (b) (6), (b) (7)(C) refused to participate in the interactive process and accused (b) (6), (b) (7)(C) of engaging in "unscrupulous business practices." (Exhibit C – (b) (6), (b) (7)(C) Email Correspondence, dated April 11-17, 2017.)

On April 21, 2017, (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) r, emailed (b) (6), (b) (7)(C) a detailed letter outlining the history of (b) (6), (b) (7)(C) workers' compensation claim, unemployment insurance claim, and leave of absence as an accommodation. (See Exh. D – (b) (6), (b) (7)(C) Letter to (b) (6), (b) (7)(C) dated April 21, 2017.) (b) (6), (b) (7)(C) detailed Amazon's extensive efforts to accommodate (b) (6), (b) (7)(C) injury by providing (b) (6), (b) (7)(C) a leave of absence while (b) (6), (b) (7)(C) recovered. (b) (6), (b) (7)(C) also reminded (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) obligations to engage in the interactive process and requested that (b) (6), (b) (7)(C) respond to the letter by May 5, 2017. Instead of engaging in the interactive process or returning to work, (b) (6), (b) (7)(C) sent a series of complaints to Amazon's management, including Jeff Bezos (Amazon's CEO), (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) 4

On September 20, 2017, following the completion of the investigation into (b) (6), (b) (7)(C) complaints to Mr. Bezos and others, (b) (6), (b) (7)(C) reached out to (b) (6), (b) (7)(C) again to discuss returning to work and whether (b) (6), (b) (7)(C) needed a continuing accommodation. Again, (b) (6), (b) (7)(C) refused to discuss returning to work or (b) (6), (b) (7)(C) need for an accommodation. Instead, (b) (6), (b) (7)(C) demanded that (b) (6), (b) (7)(C) be paid for the time (b) (6), (b) (7)(C) had been on leave, despite (b) (6), (b) (7)(C) previously advising (b) (6), (b) (7)(C) in April 2017 that (b) (6), (b) (7)(C) leave was unpaid.

On October 5, 2017, (b) (6), (b) (7)(C) advised (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) leave was unpaid as follows:

I understand you have concerns about your compensation, but you raised these concerns with HR earlier this year via emails on April

⁴ As discussed in Section II(D), complaints sent directly to Mr. Bezos are treated with a higher level of review. (b) (6), (b) (7)(C) complaints were subsequently investigated and (b) (6), (b) (7)(C) was advised on May 30, 2017 that (b) (6), (b) (7)(C) claims were unsubstantiated and that the human resources representatives (b) (6), (b) (7)(C) had been dealing with had acted appropriately in all respects.

25 and April 28. Those concerns were fully investigated. On May 30, 2017, (b) (6), (b) (7)(C) emailed you and advised you that Amazon fully reviewed your situation and found that all of Amazon's policies and procedures were appropriately followed. Concerning your injury, (b) (6), (b) (7)(C) advised you that your workers' compensation claim was decided by the appropriate entity, your claim was denied, and that decision stands. Your compensation concerns relating to your injury are considered resolved.

In case there has been any confusion, I want to reiterate that I am on the Leave of Absence and Accommodations team. The purpose of my communication with you is only to discuss whether you need an accommodation or if you are otherwise able to return to work. You have been on leave since July 2016, and I have attempted to discuss whether you can return to work, with or without a reasonable accommodation, on multiple occasions over the past six months.

If you still require an accommodation, you must let me know this and you must complete the paperwork I sent you on September 20. I am reattaching that paperwork now. If you no longer require any accommodations, please let me know that so we can discuss when you can return to work. You must respond by Friday, October 13, 2017, and let me know whether you need a continuing accommodation or whether you are able to return to work. If you do not respond by Friday, October 6 with the completed attached paperwork and let me know whether you need a continuing accommodation or whether you are able to return to work, your employment may be terminated in accordance with Amazon's Attendance Policy, which I have attached for your reference.

Again, (b) (6), (b) (7)(C) ignored all of the facts contained in (b) (6), (b) (7)(C) correspondence and ignored the Company's request that (b) (6), (b) (7)(C) discuss whether (b) (6), (b) (7)(C) needed a continuing accommodation. Instead, (b) (6), (b) (7)(C) again told (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) was engaged in "unscrupulous business practices." (Exhibit E – (b) (6), (b) (7)(C) email correspondence, September 20-October 5, 2017.)

II. AMAZON ADVISES (b) (6), (b) (7)(C) THAT (b) (6), (b) (7)(C) WILL BE SUBJECT TO THE COMPANY'S ATTENDANCE POLICY IF (b) (6), (b) (7)(C) FAILS TO RETURN TO WORK.

Based on (b) (6), (b) (7)(C)'s repeated refusal to discuss any accommodation or return to work issues with (b) (6), (b) (7)(C), Amazon's local Human Resources Business Partner for the CVG5 facility where (b) (6), (b) (7)(C) worked, took over the communications with (b) (6), (b) (7)(C).

On October 5, 2017, (b) (6), (b) (7)(C) emailed (b) (6), (b) (7)(C) to advise (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) was aware that (b) (6), (b) (7)(C) was unwilling to engage in an interactive process discussion with (b) (6), (b) (7)(C). In this email, (b) (6), (b) (7)(C) advised (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) was expected to return to work on October 6, 2017 at 1:00 PM. This was the last schedule that Amazon had for (b) (6), (b) (7)(C) (see Exh. B), and (b) (6), (b) (7)(C) had refused to discuss any other scheduling requests during the many months of correspondence throughout (b) (6), (b) (7)(C)'s leave. In this same email, (b) (6), (b) (7)(C) advised (b) (6), (b) (7)(C) that "[o]ur records indicate that you only have 60 hours of UPT available. If you exhaust your UPT and do not return to work, you will be reviewed for termination per our attendance policy." (Exhibit F – (b) (6), (b) (7)(C) email correspondence, dated October 5, 2017.) As with every other attempt to discuss (b) (6), (b) (7)(C)'s obligations, (b) (6), (b) (7)(C) again refused to discuss when (b) (6), (b) (7)(C) would return to work and directed (b) (6), (b) (7)(C) to review (b) (6), (b) (7)(C)'s correspondence with (b) (6), (b) (7)(C) (which (b) (6), (b) (7)(C) had, of course, already reviewed).

On November 1, 2017, in accordance with standard Amazon practice, (b) (6), (b) (7)(C) again emailed (b) (6), (b) (7)(C) to advise (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C)'s UPT balance had fallen below 15 hours. For all associates who fall below 15 hours of UPT and are not showing up to work, Amazon will email the associate to advise (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C) that failure to return to work will result in termination in accordance with the Company's Attendance Policy. (Exhibit G – Attendance Policy.)

(b) (6), (b) (7)(C)'s response to (b) (6), (b) (7)(C)'s low UPT balance email was to state that (b) (6), (b) (7)(C) had perfect attendance and 80 UPT in the summer of 2016 and that (b) (6), (b) (7)(C) was engaged in "unscrupulous business practices." (Exhibit H – (b) (6), (b) (7)(C) email correspondence, dated November 1, 2017.) What (b) (6), (b) (7)(C) failed to recognize was that (b) (6), (b) (7)(C) had been notified repeated during 2017 that (b) (6), (b) (7)(C)'s leave was no longer approved and (b) (6), (b) (7)(C)'s UPT would be depleted if (b) (6), (b) (7)(C) failed to return to work.

The Board's Request for Evidence letter states that (b) (6), (b) (7)(C) alleges (b) (6), (b) (7)(C) received a notice of perfect attendance around the same time (b) (6), (b) (7)(C) received notice of (b) (6), (b) (7)(C)'s low UPT balance. Notices of perfect attendance, called "attendance token" emails, are sent to associates who have perfect attendance in a given week, are on an approved leave, or who are otherwise not using any UPT.

It is true that (b) (6), (b) (7)(C) did receive a notice of perfect attendance on October 31, 2017. This notice was sent in error by (b) (6), (b) (7)(C), a human resources assistant. (b) (6), (b) (7)(C) transitioned within the past year from a different position within the Company to assist the HR department at CVG5. (b) (6), (b) (7)(C) was asked to fill in and assist with sending Amazon associates their "attendance tokens" the week of approximately October 30 because the Senior Human Resources Assistant had taken unexpected and sudden leave. The week that (b) (6), (b) (7)(C) sent (b) (6), (b) (7)(C) attendance token (i.e., notice of "perfect attendance") was the first week (b) (6), (b) (7)(C) performed this task. Another human resources assistant showed (b) (6), (b) (7)(C) how to pull the employee attendance data to be used for sending out attendance tokens, and for some reason (b) (6), (b) (7)(C) accidentally pulled (b) (6), (b) (7)(C) name in that data retrieval. (b) (6), (b) (7)(C) was unfamiliar with (b) (6), (b) (7)(C) situation or the circumstances of (b) (6), (b) (7)(C) leave and failure to return to work. Another HR representative in CVG5 would have been familiar with (b) (6), (b) (7)(C) failure to return to work and would have likely known that (b) (6), (b) (7)(C) was not eligible to receive an attendance token/perfect attendance email because (b) (6), (b) (7)(C) was depleting (b) (6), (b) (7)(C) UPT. That is, another HR representative at CVG5 would have realized that (b) (6), (b) (7)(C) name appearing on a perfect attendance list was erroneous. The notice congratulating (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) perfect attendance was sent entirely in error and should not have gone out.

In (b) (6), (b) (7)(C) November 1 email, (b) (6), (b) (7)(C) also asked "Who put me back on the schedule? What days did you schedule me for? What shift? What job?" These questions had been answered in previous correspondence. (See Exhs. B, E, F, G.) Amazon never made any attempts to confuse (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) was notified over and over that (b) (6), (b) (7)(C) needed to return to (b) (6), (b) (7)(C) previous position at Amazon, and under (b) (6), (b) (7)(C) previous schedule, if (b) (6), (b) (7)(C) did not need a continuing accommodation. Based on (b) (6), (b) (7)(C) repeated refusal to respond constructively to Amazon's attempts to discuss (b) (6), (b) (7)(C) returning to work, (b) (6), (b) (7)(C) did not respond to (b) (6), (b) (7)(C) November 1 email since (b) (6), (b) (7)(C) had already advised (b) (6), (b) (7)(C) on October 5 that (b) (6), (b) (7)(C) was back on the schedule and expected to return to work on October 6 at 1:00 PM. (See Exh. F.)

Therefore, (b) (6), (b) (7)(C) UPT bank was further depleted. On November 8, 2017, (b) (6), (b) (7)(C) notified (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) UPT bank was negative. (b) (6), (b) (7)(C) restated that (b) (6), (b) (7)(C) was expected to have returned to work on October 6 and (b) (6), (b) (7)(C) failed to do so. (b) (6), (b) (7)(C) advised (b) (6), (b) (7)(C) that termination follows consumption of all UPT and failure to return to work. (b) (6), (b) (7)(C) was also advised that if (b) (6), (b) (7)(C) did not return to work by Saturday, November 11, (b) (6), (b) (7)(C) employment would be terminated. (b) (6), (b) (7)(C) failed to return to work. Instead, (b) (6), (b) (7)(C) emailed (b) (6), (b) (7)(C) and pasted (b) (6), (b) (7)(C) previous email regarding (b) (6), (b) (7)(C) previous UPT balance (prior to (b) (6), (b) (7)(C) leave of absence and failure to return to work). (Exhibit I - (b) (6), (b) (7)(C) email correspondence, dated November 8, 2017.) As with (b) (6), (b) (7)(C) November 1 email, (b) (6), (b) (7)(C) did not respond to (b) (6), (b) (7)(C) November 8 email stating that (b) (6), (b) (7)(C) allegedly did not understand who put (b) (6), (b) (7)(C) back on the

schedule or for what shifts or job. This information had been communicated to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) also ignored (b) (6), (b) (7)(C) personal attack of (b) (6), (b) (7)(C) character and repeated claim that (b) (6), (b) (7)(C) was engaging in “unscrupulous business practices.”

(b) (6), (b) (7)(C) failed to return to work, and (b) (6), (b) (7)(C) failed to notify anyone at Amazon whether (b) (6), (b) (7)(C) needed a continuing accommodation for any alleged disability. (b) (6), (b) (7)(C) does not and cannot dispute these facts. For these reasons, (b) (6), (b) (7)(C) employment was terminated effective November 15, 2017. (b) (6), (b) (7)(C) termination had nothing to do with the Office of Appeals’ November 15, 2017 denials of (b) (6), (b) (7)(C) three pending appeals of the Region’s dismissals of (b) (6), (b) (7)(C) previous unfair labor practice charges. In fact, Amazon did not receive notice of the Office of Appeals’ denials of (b) (6), (b) (7)(C) appeal until *after* the termination notice had been sent. (b) (6), (b) (7)(C) charge should be dismissed in its entirety.

DISCUSSION

I. (b) (6), (b) (7)(C) SECTION 8(A)(1), 8(A)(3), AND 8(A)(4) ALLEGATIONS ARE MERITLESS.

Based on the factual record, it is clear that (b) (6), (b) (7)(C) allegations are without merit.

(b) (6), (b) (7)(C) was not discharged in retaliation for (b) (6), (b) (7)(C) cooperation with the NLRB or (b) (6), (b) (7)(C) filing of unfair labor practice charges. (b) (6), (b) (7)(C) was not discharged because the Office of Appeals denied (b) (6), (b) (7)(C) appeals of (b) (6), (b) (7)(C) three previously dismissed charges. (b) (6), (b) (7)(C) was discharged for the simple reason that (b) (6), (b) (7)(C) refused to return to work and refused to tell Amazon if (b) (6), (b) (7)(C) had a continuing disability for which (b) (6), (b) (7)(C) was requesting an accommodation. Since (b) (6), (b) (7)(C) refused to do either of these two things despite being notified of (b) (6), (b) (7)(C) obligation to do so on multiple occasions, (b) (6), (b) (7)(C) was terminated in accordance with the Company’s Attendance Policy after (b) (6), (b) (7)(C) exhausted all of (b) (6), (b) (7)(C) UPT.

(b) (6), (b) (7)(C) cannot provide any evidence that (b) (6), (b) (7)(C) was discharged, disciplined or retaliated against because (b) (6), (b) (7)(C) filed unfair labor practice charges, cooperated with the NLRB, or because the Office of Appeals denied (b) (6), (b) (7)(C) appeals.

A. Amazon Did Not Discharge (b) (6), (b) (7)(C) Because of (b) (6), (b) (7)(C) Protected Conduct or Because the Office of Appeals Denied (b) (6), (b) (7)(C) Unfair Labor Practice Charge Appeals.

Given that Amazon is alleged to have terminated (b) (6), (b) (7)(C) after (b) (6), (b) (7)(C) filed unfair labor practice charges and/or cooperated with the NLRB, the Board’s *Wright Line* test applies here. In other words, the legal question is what motivated Amazon’s allegedly discriminatory conduct: (b) (6), (b) (7)(C) asserted conduct, or Amazon’s legitimate business conduct.

In cases concerning alleged unlawful terminations, the Board typically utilizes the legal framework established under *Wright Line*, 251 NLRB 1083 (1980), *enfd.*, 662 F.2d 899 (1st Cir. 1981), *cert. denied*, 455 U.S. 989. Under this multi-part test, first “the General Counsel must make a *prima facie* showing sufficient to support the inference that protected conduct was a ‘motivating factor’ in the employer’s decision.” See *Wal-Mart Stores, Inc.*, 352 NLRB 815, 845 (2008). Additionally, a violation necessarily depends on a causal connection between employee protected activities and an adverse employment action. See *P.W. Supermarkets Inc.*, 269 NLRB 839, 840 (1984).

If this showing is made by a preponderance of the evidence, “the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct.” *Wal-Mart Stores*, 352 NLRB at 845; see *Cardinal Home Prods., Inc.*, 338 NLRB 1004, 1008 (2003). “The Board also applies this *Wright Line* analysis to allegations that an employer violated Section 8(a)(4) and (1) by discriminating against ‘an employee because he has filed charges or given testimony’ in a Board proceeding.” *Verizon*, 350 NLRB 542, 546–547 (2007); *American Gardens Mgmt. Co.*, 338 NLRB 644, 644–645 (2001); *Gary Enterprises*, 300 NLRB 1111, 1113 (1990), *enfd.* mem. 958 F.2d 368 (4th Cir. 1992). *Midwest Terminals of Toledo Int’l*, 2016 NLRB LEXIS 37, *78 (NLRB Jan. 21, 2016).

Under this framework, (b) (6), (b) (7)(C) has not presented any allegations to support a *prima facie* case of unlawful termination. Further, if the limited facts presented by (b) (6), (b) (7)(C) could be construed as providing that predicate *prima facie* case, which they cannot, Amazon still had a legitimate business reason for terminating (b) (6), (b) (7)(C) refused to engage in the interactive process or return to work. For these reasons, the charge should be dismissed, absent withdrawal.

1. (b) (6), (b) (7)(C) Allegation of That (b) (6), (b) (7)(C) Was Terminated Because The Office of Appeals Denied (b) (6), (b) (7)(C) Appeals Is Baseless.

In order to meet (b) (6), *prima facie* burden, (b) (6), (b) (7)(C) must establish that (b) (6), (b) (7)(C) filing of unfair labor practice charges, cooperation with the NLRB, and the Office of Appeals’ denial of (b) (6), (b) (7)(C) appeals were the “motivating factors” behind the Company’s termination of (b) (6), (b) (7)(C) employment. See *Wal-Mart Stores, Inc.*, 352 NLRB at 845. Additionally, a violation necessarily depends on a causal connection between employee protected activities and an adverse employment action. See *P.W. Supermarkets Inc.*, 269 NLRB at 840.

(b) (6), (b) (7)(C) cannot establish this causal connection. (b) (6), (b) (7)(C) was notified on multiple occasions, long before the Office of Appeals denied (b) (6), (b) (7)(C) appeals, that if (b) (6), (b) (7)(C) did not return to work or provide medical certification to document a continuing disability for

which (b) (6) was requesting an accommodation, then (b) (6) would be subject to the Attendance Policy and failure to return to work would result in termination.

As discussed above, (b) (6), (b) (7)(C) was notified that (b) (6) UPT was running low and then that (b) (6) UPT balance was negative, and that (b) (6) needed to return to work or (b) (6) would be terminated. These communications happened on October 5, November 1, and November 8. (b) (6), (b) (7)(C) was terminated before the Company was notified that the Office of Appeals had denied (b) (6), (b) (7)(C) appeals. (b) (6), (b) (7)(C) claims are baseless and must be dismissed.

2. Assuming (b) (6), (b) (7)(C) Could Prove (b) (6), (b) (7)(C) *Prima Facie* Case, Amazon's Conduct Was Based on Legitimate Business Reasons.

Assuming *arguendo* that a *prima facie* case was presented by the charge, which is not the case, the Company has legitimate business reasons for its conduct. As discussed above, (b) (6), (b) (7)(C) was notified on no fewer than eight occasions over the past year that (b) (6) needed to return to work or advise Amazon whether (b) (6) needed a continuing accommodation. Amazon has acted completely lawfully in all respects, and provided (b) (6), (b) (7)(C) with ample time to notify the Company as to whether (b) (6) requested continued leave (or some other reasonable accommodation). (b) (6), (b) (7)(C) had an obligation to engage in the interactive process with Amazon, and (b) (6) refused to do so. For this reason, (b) (6), (b) (7)(C) termination was proper. *See, e.g., Kovac v. Superior Dairy, Inc.*, 998 F. Supp. 2d 609, 619–620 (N.D. Ohio 2014) (holding “. . . when the employer engages with an employee who refuses to participate in good faith or withholds essential information, the employer cannot be liable under the ADA for failure to accommodate.”).

Here, (b) (6), (b) (7)(C) refused to engage in the interactive process and was fixated on the idea that (b) (6) was entitled to pay for (b) (6) leave of absence, and refused to discuss anything else. (b) (6), (b) (7)(C) cannot dispute these facts. (b) (6), (b) (7)(C) was not entitled to paid leave, and (b) (6) was specifically advised this on April 17, 2017 by (b) (6), (b) (7)(C) and on May 30, 2017, by (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) also cannot dispute that (b) (6) did not return to work, and (b) (6) did not advise Amazon as to whether (b) (6) had a continuing disability.

(b) (6), (b) (7)(C) termination had nothing to do with rights protected under the Act, and (b) (6) can produce no evidence that Amazon violated the Act. For all these reasons, the Company's treatment of (b) (6), (b) (7)(C) was appropriate and lawful, and the charge should be dismissed, absent withdrawal.

Joseph F. Tansino
Case No. 09-CA-208929
December 12, 2017
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CONCLUSION

Given the record evidence, this charge should be dismissed, absent withdrawal.

Please let us know if you have any questions or need any additional information. If additional information or evidence is provided by the Charging Party, please afford the Company an opportunity to respond to it.

Sincerely,

Michael Lignowski

MICHAEL E. LIGNOWSKI

EXHIBIT A



my**accommodation** Services

Fax: 1-206-946-7289

Email: accommodations@amazon.com

January 11, 2017

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

RE: Accommodation Case Closed, Case #: 1416905747

Dear (b) (6), (b) (7)(C)

This letter is in follow up to your request for a job accommodation which you initiated because of a health condition that you believe is impacting your ability to perform your job duties. Our records indicate you submitted your request on 7/24/2016.

In order for us to consider your request for accommodation, we must confirm you have a qualifying disability and because of that disability, you are unable to perform one or more of your essential job duties. In order for us to make this determination it requires your active participation and compliance with the following associate/employee responsibilities:

- 1) Your timely response and active participation in conversation(s) with us so we might better understand your needs;
- 2) If requested, your timely submission of medical documentation completed by your healthcare provider (outlining your abilities, restrictions and potential accommodation needs.)

As of the date of this letter you have not responded to either of the above noted responsibilities (you have not responded to our outreach attempts on 1/11/2017 and you have not submitted medical documentation since your last leave as accommodation approval which ended on 8/17/2016. Based on your lack of response, it is our assumption you are no longer requesting a job accommodation, as a result we do not regard you as being disabled and you are fully able to perform all your essential job duties.

Note: If you have been off work during this time, you are to return to work for your next scheduled shift or we will assume you are not returning and we will initiate a leave of absence on your behalf, if applicable. Eligibility for Leave of Absence is subject to the terms and conditions of the LOA policies which may include being in an eligible employee class status, time and service requirements and medical certification guidelines. Eligibility for leave is determined by the MyLeave team and is not guaranteed.

It is important to note that any lost time not covered by either an approved accommodation or Leave of Absence (written approval) is subject to the terms and conditions of the Attendance Guidelines as assessed and administered by Human Resources. If you were out of work during the accommodation process, you may be required to submit medical documentation certifying that you are able to return to work and perform the essential functions of your position. Your time off may be subject to the standard attendance policy.

If you disagree with the above findings or assessment, please contact me by the close of business 10 days from the date of this letter

(b) (6), (b) (7)(C) | Amazon

EXHIBIT B



April 6, 2017

(b) (6), (b) (7)(C)
2120 Kemper ln
2
Cincinnati, OH 45206

Re: Leave of Absence Denial: Case #: 1416905747

Dear (b) (6), (b) (7)(C)

The notice you received which stated that your employment ended on (b) (6), (b) (7)(C) 2017 was sent in error and is rescinded. Your employment remains active.

Our records indicate you have been on a leave of absence since July 27, 2016. At this time, we want to notify you that any continued leave is unapproved and you are expected to return to work. You will furthermore be held accountable to Amazon's Attendance Policy, a copy of which is attached for your reference.

On file, we currently have you on a modified schedule you have been working when you were on site back in July 2016:

- Wednesday: 1:00PM to 5:00PM
- Thursday: 1:00PM to 5:00PM
- Friday: 1:00PM to 5:00PM
- Saturday: 07:30AM to 5:00PM

If the modified schedule you last worked is no longer requested, please discuss your requested schedule with Vinh Ho, Interim Site HRBP.

Based on the modified work schedule we have on file, we expect you to return to work on **Wednesday, April 12, 2017**, unless you notify us that additional leave is requested and you provide medical documentation from your healthcare provider documenting the need for a leave of absence.

If you have any additional questions, please contact local HR CVG5-HR@amazon.com or email accommodations@amazon.com.

If we do not hear from you, I will close the active leave of absence file on this matter. Thank you for your attention to this letter.

Leave of Absence | Amazon

EXHIBIT C

From: (b) (6), (b) (7)(C) [mailto:(b) (6), (b) (7)(C)]
Sent: Monday, April 17, 2017 1:16 PM
To: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>
Subject: Re: Amazon Accommodations Request

Good Afternoon Amazon (b) (6), (b) (7)(C),

Thank you for your note, and your expressed interest in this dialogue. To date though your communication has not been constructive however.

WHEN AN EMPLOYEE IS INJURED ON THE JOB @ AMAZON, THE COMPANY HAS A RESPONSIBILITY, LEGAL RESPONSIBILITY TO THAT EMPLOYEE.

To hide from that responsibility is an unscrupulous business practice.

(b) (6), (b) (7)(C) you are engaged in unscrupulous business practices..

Please **re-familiarize** yourself with the company records on this, and the surgery that followed, and then communicate your recommendation for a fair resolution.

Sincerely,

(b) (6), (b) (7)(C)

On Mon, Apr 17, 2017 at 11:02 AM, (b) (6), (b) (7)(C) <[REDACTED]> wrote:

Hi (b) (6), (b) (7)(C),

I am familiar with your file. You were placed on a leave of absence, beginning on July 24, 2016, as an accommodation for your temporary disability. As you know from the communications Amazon sent last year, your workers' compensation claim was denied.

In line with company policy, your temporary leave of absence from July 24, 2016 through the present was unpaid.

We can engage in an interactive dialogue via email to the extent it is productive. If I feel that a phone call is necessary, I will let you know.

Please confirm whether you need an accommodation in order to return to work. If you do need an accommodation, then your medical provider's documentation from last year needs to be updated to describe the accommodation(s) you might need in order to perform your job. I will need your medical provider to complete the attached form by 4/24/2017. If you no longer need an accommodation in order to perform your job, then let's discuss your return-to-work date.

Best,

(b) (6), (b) (7)(C) | (b) (6), (b) (7)(C)

HR Services – Leave and Accommodations

CVG | LEX | CMH

[REDACTED]

amazon
HR Services
Leave of Absence & Accommodations

From: (b) (6), (b) (7)(C) [mailto:(b) (6), (b) (7)(C)]
Sent: Tuesday, April 11, 2017 5:15 PM
To: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>
Subject: Re: Amazon Accommodations Request

Good Afternoon Amazon (b) (6), (b) (7)(C) (b) (6), (b) (7)(C),

Thank you for your note, and your expressed interest in this dialogue. Let's keep our communication in writing. And let's begin with making sure that I am paid for my lost work @ Amazon due to my well documented on the job injury there at CVG5, *effective July 24, 2016.*

Please familiarize yourself with the company records on this, and the surgery that followed, and then communicate your recommendation for a fair resolution.

Sincerely,

(b) (6), (b) (7)(C)

On Tue, Apr 11, 2017 at 3:39 PM, (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)> wrote:

Greetings (b) (6), (b) (7)(C),

By way of introduction, my name is (b) (6), (b) (7)(C) with Amazon HR Services. My job is to assist Amazonians experiencing job difficulties due to a qualifying disability. It is my understanding that you would like to discuss the performance of your job duties because of a complaint related to your wrist.

I would like to schedule a time to call and speak with you. This interactive discussion will help me better understand your medical issue and your thoughts on possible accommodations to allow you to perform your

job. I will also be able to walk you through the process and discuss the documents for you and your healthcare provider to complete.

This discussion is one of the most important aspects as you and I work through your request and concerns; without it, I cannot accurately understand your needs and assist you to the best of my abilities. I have availability tomorrow, April 12, 2017 in the afternoon. I am also available Monday, April 17, 2017. I look forward to scheduling a time with you.

Very Best,

(b) (6), (b) (7)(C) | (b) (6), (b) (7)(C)

HR Services - (b) (6), (b) (7)(C)

CVG | LEX | CMH

amazon

HR Services

(b) (6), (b) (7)(C)

(b) (4)

EXHIBIT D



April 21, 2017

VIA OVERNIGHT MAIL AND EMAIL

(b) (6), (b) (7)(C)

Re: Final Effort to Engage in Interactive Process

Dear (b) (6), (b) (7)(C)

I am in receipt of your most recent communication with (b) (6), (b) (7)(C), dated April 17, 2017, in which you repeat that you were injured on the job at Amazon and assert that Company has some legal responsibility to you. You also claim that you believe Amazon is engaging in “unscrupulous business practices.”

As you are aware, your claims regarding a work place injury have already been denied by the carrier and that issue has been addressed with you on multiple occasions. Also, given that Amazon has engaged in extensive efforts to try to address any work restrictions, and has continuously attempted to engage with you in an interactive, we are disappointed that you would allege that our practices are unscrupulous; the Company denies any such allegation.

Most recently, in response to our further attempts to engage in an interactive process, you have flatly refused. Please understand that Amazon is committed to complying with the Americans with Disabilities Act (“ADA”) and applicable state law and to making reasonable accommodations for individuals with covered disabilities that do not create an undue burden on the Company. However, in order to be entitled to protections under the ADA and state law, you also have obligations to cooperate in the interactive process.

You have now been out on a leave of absence since July 22, 2016. Because we cannot continue to engage in the interactive process without your cooperation, it is helpful for us to review the circumstances related to your absence. Essentially there have been three primary issues: (1) your claim for workers’ compensation; (2) your claim for unemployment; and (3) Amazon’s accommodation of your temporary disability with a leave of absence.

Workers' Compensation

- On approximately July 22, 2016, you notified Amazon that you suffered an alleged work injury to your left hand and wrist on or about April 6, 2016 (almost 4 months earlier).
- The same day, Amazon gave you the appropriate information for beginning the process of submitting a workers' compensation claim.
- Amazon's workers' compensation claims are administered by a third-party claims administrator, Sedgwick.
- Amazon's Safety Team reviewed your claims concerning your workplace injury. We looked at all available video footage from the dates and times of the alleged injury, and likewise interviewed coworkers and witnesses who would have been nearby on the dates and times of the alleged injury. Amazon's Safety Team did not agree that your injury happened as you claimed.
- Sedgwick received all the appropriate information from you and from Amazon regarding your workers' compensation claim.
- Sedgwick **denied** your workers' compensation claim and notified you of the denial on July 27, 2016.
- On August 4, 2016, as you are allowed to do, you requested to be allowed to seek a second opinion regarding your injury. You were responsible for seeking a second opinion by August 17, 2016. You did not submit anything by August 17, 2016 regarding your workers' compensation claim denial. The denial therefore became **final**.

Unemployment

- In August 2016, after you knew that your workers' compensation claim had been denied, you filed for unemployment through the State of Kentucky.
- Your claim for unemployment was denied on September 2, 2016, because you were ineligible for benefits since you were not unemployed. Indeed, you continue to be employed by Amazon at this time.
- You appealed the denial of unemployment benefits on September 8, 2016. The issue before the Division of Unemployment Insurance Appeals Branch Referee was: "Whether the claimant is on a voluntary leave of absence and is ineligible for benefits." (*Id.*)
- After recounting the factual background of your claims, the Referee detailed that "[t]he claimant informed the employer of [REDACTED] restrictions, and the employer, who had no work available within the restrictions, placed the claims on a medical leave of absence until

restrictions are lifted or until October 22, 2016, when the claimant's medical leave will end."

- Upholding the denial of unemployment benefits, the Referee found: "DECISION: The determination is affirmed and the claimant's ineligibility is extended to the week of September 24, 2016, and will continue so long as conditions remain substantially unchanged."

Extended Leave of Absence as an Accommodation

- On July 22, 2016, you submitted a note from a (b) (6), (b) (7)(C) that stated that you had the following work restrictions: "Lift no more than 20 pounds with the left hand (40 pounds total). Avoid grip and twist movements."
- On July 25, 2016, Amazon's Job Safety team reviewed your work restrictions in order to determine whether the Company could accommodate these restrictions with a light duty position.
- Based on your July 22, 2016 work restrictions as provided by your physician, you were fully restricted from: lifting more than 21 pounds, crawling, climbing ladders, doing "forceful grasping [or] turning such as using a packaging tape dispenser."
- Additionally, your physician indicated that you were limited in using your hand for repetitive motion, and limited in your ability to do simple grasping or turning, such as grasping a hand scanner for scanning packages.

Based on your restrictions, it was determined that you were unable to perform the essential functions of your position. In addition, the Job Safety team determined that there was no light duty position, or other available vacant position, that you could perform with the restrictions identified. Indeed, 80% of all the work done in the Sort Center involves picking up packages, scanning them, and then physically moving them to another location in the warehouse.

Since your work restrictions prevented you from working at that time, Amazon began the process of reviewing your eligibility for a leave of absence. At the time you began leave—July 24, 2016—Amazon also reviewed relevant criteria to determine if you qualified for leave under the Family and Medical Leave Act ("FMLA"). However, you had only worked for Amazon for approximately eight (8) months and had only worked 1006.63 hours. Under applicable law, an employee must work for (b) (6), employer for 12 months and a total of 1250 hours in order to be covered by the provisions of the FMLA. Accordingly, you received a letter notifying you that you did not qualify for FMLA leave on July 27, 2016. In addition, as a part time employee, you were not eligible for a personal leave of absence.

Nevertheless, given that your physician indicated that you had a temporary disability, Amazon offered you an unpaid leave of absence to allow you to retain your employment with the Company.

April 21, 2017

Page 4

The Accommodation team of Amazon determined that since your condition was indicated to be temporary, and despite that you were not eligible for FMLA and/or workers' compensation, the Company would grant you an unpaid leave, which was expected to run from July 27, 2016 through August 17, 2016. Thereafter, the following occurred:

- In connection with appealing the denial of your unemployment claim, you submitted another doctor's note around October 10, 2016. In this second note from a (b) (6), (b) (7)(C) of the Hand Surgery Specialists, your work restriction required that you avoid lifting more than 10 pounds (less weight than what you could previously lift).
- Amazon requested that you submit medical documentation explaining whether you needed continued leave on September 13, 2016, October 11, 2016, and November 4, 2016. You never responded to any of these requests.
- On January 11, 2017, (b) (6), (b) (7)(C) rtag, a (b) (6), (b) (7)(C) for the CVG Region, sent you a letter on behalf of Amazon's Accommodation team concerning the status of your almost six-month leave of absence. (b) (6), (b) (7)(C) reminded you that you had not submitted medical documentation since your last leave as accommodation approval which ended on 8/17/2016." You never responded to this letter.

As you know, you filed an unfair labor practice charge with the National Labor Relations Board on January 3, 2017 (Case No. 09-CA-190719). Amazon disputed the claims you alleged in connection with that charge, and the NLRB dismissed your charge, in its entirety, because it lacked merit.¹

You have now been out on a leave of absence for approximately 9 months. Most recently, Amazon has been trying to work with you over the past three weeks regarding whether you still need a leave of absence for a disability, or whether you are able to return to work, whether with or without reasonable accommodations. Rather than engaging in the interactive process, you have instead been solely focused on asserting a right to back pay for the period of your unpaid leave. Indeed, you have specifically refused to engage in the interactive process in email correspondence dated April 11, 2017 and April 17, 2017.

However, as set forth above, and as (b) (6), (b) (7)(C) has explained, your leave was properly designated as an unpaid leave and you have no legal claim to any back pay.

In view of all of the foregoing, please understand that if you continue to refuse to engage in the interactive process with us, we will understand that you will be unable to return to work and perform the essential functions of your position, whether with or without a reasonable accommodation, that you are otherwise not qualified for additional leave under the ADA and/or

¹ Notably, your second unfair labor practice charge (Case No. 09-CA-195142) was dismissed on April 17, 2017 in its entirety based on your failure to cooperate.

(b) (6), (b) (7)(C)

April 21, 2017

Page 5

applicable law and/or that you are refusing to return to work. Accordingly, we will have no alternative but to consider you to have voluntarily resigned your employment.

To be clear, if you fail to respond to this letter and engage in the interactive process, your employment will automatically be terminated effective Friday, (b) (6), (b) (7)(C) 2017. In that event, additional documentation regarding separation of your employment will be sent to you under separate cover.

We will look forward to hearing from you and engaging further in the interactive process.

Sincerely,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

EXHIBIT E

From: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>
Sent: Thursday, October 05, 2017 8:43 AM
To: (b) (6), (b) (7)(C)
Subject: Re: Accommodation Follow-up

Again,, Good Afternoon Amazon (b) (6), (b) (7)(C)

Thank you for your note, and your expressed interest in this dialogue. To date though your communication has not been constructive however.

WHEN AN EMPLOYEE IS INJURED ON THE JOB @ AMAZON, THE COMPANY HAS A RESPONSIBILITY, LEGAL RESPONSIBILITY TO THAT EMPLOYEE.

To hide from that responsibility is an unscrupulous business practice.

(b) (6), (b) (7)(C) you are engaged in unscrupulous business practices..

Please **re-familiarize** yourself with the company records on this, and the surgery that followed, and then communicate your recommendation for a fair resolution.

Sincerely,

(b) (6), (b) (7)(C)

On Thu, Oct 5, 2017 at 2:45 AM, (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)> wrote:

Greetings (b) (6), (b) (7)(C),

I understand you have concerns about your compensation, but you raised these concerns with HR earlier this year via emails on April 25 and April 28. Those concerns were fully investigated. On May 30, 2017, (b) (6), (b) (7)(C) emailed you and advised you that Amazon fully reviewed your situation and found that all of Amazon's policies and procedures were appropriately followed. Concerning your injury, (b) (6), (b) (7)(C) advised you that your workers' compensation claim was decided by the appropriate entity, your claim was denied, and that decision stands. Your compensation concerns relating to your injury are considered resolved.

In case there has been any confusion, I want to reiterate that I am on the Leave of Absence and Accommodations team. The purpose of my communication with you is only to discuss whether you need an accommodation or if you are otherwise able to return to work. You have been on leave since July 2016, and I have attempted to discuss whether you can return to work, with or without a reasonable accommodation, on multiple occasions over the past six months.

If you still require an accommodation, you must let me know this and you must complete the paperwork I sent you on September 20. I am reattaching that paperwork now. If you no longer require any accommodations, please let me know that so we can discuss when you can return to work. You must respond by **Friday, October 13, 2017**, and let me know whether you need a continuing accommodation or whether you are able to return to work. If you do not respond by Friday, October 6 with the completed attached paperwork and let me know whether you need a continuing accommodation or whether you are able to return to work, your employment may be terminated in accordance with Amazon's Attendance Policy, which I have attached for your reference.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Phone: [REDACTED] | Email: [REDACTED] | Fax: [REDACTED]

[Provide feedback on your experience today](#)



From: (b) (6), (b) (7)(C) [mailto:(b) (6), (b) (7)(C)]
Sent: Wednesday, September 20, 2017 10:16 AM
To: (b) (6), (b) (7)(C) <[REDACTED]>
Subject: Re: Accommodation Follow-up

Good Afternoon (b) (6), (b) (7)(C)

Again (b) (6), (b) (7)(C). Thank you for your note, and your expressed interest in this dialogue.

Let's begin with making sure that I am paid for my lost work @ Amazon due to my well documented on the job injury there at CVG5, effective **July 24, 2016**.

Please familiarize yourself with the company records on this, and the surgery that followed, and then communicate your recommendation for a fair resolution.

Sincerely,

(b) (6), (b) (7)(C)

On Wed, Sep 20, 2017 at 2:38 AM, (b) (6), (b) (7)(C) <[REDACTED]> wrote:

Greetings (b) (6), (b) (7)(C),

I am reaching out to you again in an attempt address and resolve your possible need for reasonable accommodation. As previously noted, my job is to assist associates experiencing job difficulties due to a qualifying disability. In order for me to assist you through this process, I will need to engage in a discussion with you as well as obtain medical documents noting your ability to return to work with or without a reasonable accommodation. If you do not require an accommodation in order to return to work, please let me know so I can ensure you are returned properly. I have attached accommodation documents for you and your healthcare provider. I will need these forms completed and returned to me by 9/27 if you have an accommodation need.

Very Best,

(b) (6), (b) (7)(C) | (b) (6), (b) (7)(C)

Amazon Leave and Accommodation

Phone: [REDACTED] | Email: [REDACTED] | Fax: [REDACTED]

[Provide feedback on your experience today](#)



For leave of absence contact:



Phone: [1-888-892-7180](tel:1-888-892-7180), press option 1

Fax: [1-847-554-1812](tel:1-847-554-1812)

Online: <https://myleave.amazon.com/> (you must be on the Amazon network to access)

Mail documents to: PO Box 6278, Broomfield, CO 80021.

Escalations: [quicklink](#) (you must be on the Amazon network to access)

EXHIBIT F

From: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
Sent: Thursday, October 05, 2017 2:58 PM
To: (b) (6), (b) (7)(C)
Subject: Re: Return to Work Follow-up

Hi (b) (6), (b) (7)(C)

You are mistaken.. I would suggest you review the note I sent to (b) (6), (b) (7)(C). I hope you are well.

(b) (6), (b) (7)(C)

On Thu, Oct 5, 2017 at 5:29 PM, (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)> wrote:

(b) (6), (b) (7)(C),

I am in receipt of your reply and I understand from it that you are unwilling to engage in an interactive dialogue with us about your ability to return to work. If you still require a LOA, then you will need to respond to (b) (6), (b) (7)(C) to cooperate with (b) (6), (b) (7)(C) requests for information.

You are expected to show up for work tomorrow, October 6, 2017 at 1:00 PM. Our records indicate that you only have 60 hours of UPT available. If you exhaust your UPT and do not return to work, you will be reviewed for termination per our attendance policy.

If you choose not to report to work and wish to utilize any remaining UPT you may have, you can email us at CVG5-attendance@amazon.com to alert us of your absence. Failure to call out for three consecutive shifts will be noted as job abandonment and you will be reviewed for termination per our attendance policy.

Regards,

(b) (6), (b) (7)(C)

EXHIBIT G

Exhibit G, which consists of the Amazon NAFC Attendance Policy, is exempt from disclosure under the FOIA Exemption 4.

EXHIBIT H

From: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
Sent: Wednesday, November 01, 2017 1:18 PM
To: (b) (6), (b) (7)(C)
Subject: Re: Amazon HR: UPT Balance <15 Hours

Hi (b) (6), (b) (7)(C),

Thanks for your note, according to my records when last I worked @ Amazon and was on the schedule in the Summer of 2016 I had 80 UPT and perfect attendance & so you are either in error or engaged in unscrupulous business practices including slander.

Who put me back on the schedule? What days did you schedule me for? What shift? What job?

Sincerely,

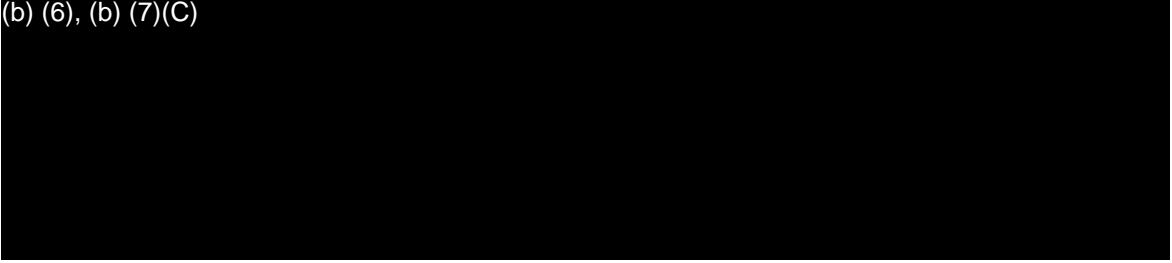
(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

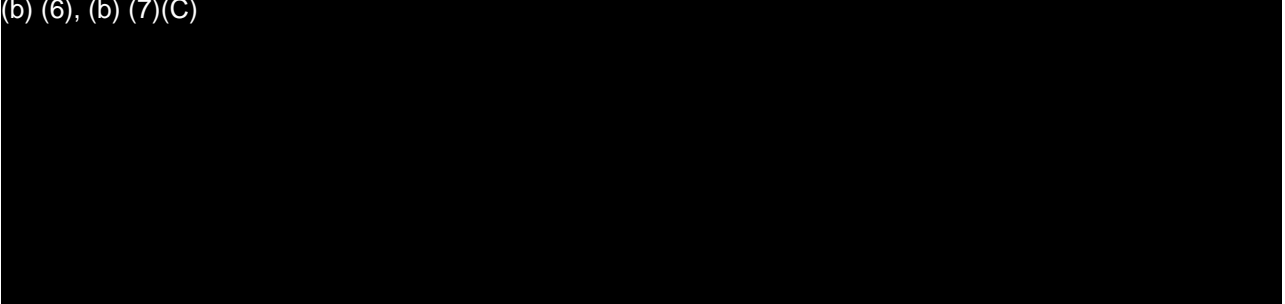
(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)



On Wed, Nov 1, 2017 at 4:03 PM, (b) (6), (b) (7)(C) <[REDACTED]> wrote:

(b) (6), (b) (7)(C),

This email is being sent to notify you of your current UPT balance. As of 11/1/17 your UPT balance has fallen to 15 hours or less.

The intent of this notice is to make you aware that currently you have very little UPT remaining. It is expected that going forward you maintain a high level of attendance without depleting your UPT balance. UPT balances can be reviewed on the hub.amazon.work site. Per the Attendance Policy – US Sortation Center, “In the event you... consume all of the allotted UPT available, termination of employment will occur.”

We value you as a team member and appreciate the efforts you give to ensure we are the Earth’s most customer centric company. As an owner, we want you to be successful. Remember that your manager and the HR department are available to help with:

- Discussing/Removing barriers that may impede success
- Provide regular updates of your UPT time

Please reach out to HR at cvg5-attendance@amazon.com if you believe you are receiving this email in error or if you have any questions regarding UPT.

Please respond at your earliest convenience to confirm you have received the email.

Regards,

(b) (6), (b) (7)(C)

EXHIBIT I

From: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
Sent: Wednesday, November 08, 2017 8:29 PM
To: (b) (6), (b) (7)(C)
Subject: Re: Amazon HR: Negative UPT Balance

Hi (b) (6), (b) (7)(C)

I responded to your note and have not heard back from you until today. Specifically, **again**,

"..according to my records when last I worked @ Amazon and was on the schedule in the Summer of 2016 I had 80 UPT and perfect attendance & so you are either in error or engaged in unscrupulous business practices including slander.

Who put me back on the schedule? What days did you schedule me for? What shift? What job?"

Cari you are engaged in unscrupulous business practices.

For the second time..

Who put me back on the schedule? What days did you schedule me for? What shift? What job?

Sincerely,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

On Wed, Nov 8, 2017 at 10:42 PM, (b) (6), (b) (7)(C) <[REDACTED]> wrote:

Greetings (b) (6), (b) (7)(C)

This email is being sent to notify you of your current UPT balance. As of 11/8/17 your UPT balance is currently negative. As described to you in an email on October 5, you were expected to report to work on October 6, 2017 at 1:00 PM. You have not returned to work, and have therefore exhausted your UPT.

UPT balances can be reviewed on the hub.amazon.work site. Per the Attendance Policy – US Sortation Center, “In the event you... consume all of the allotted UPT available, termination of employment will occur.” We value you as a team member and appreciate the efforts you give to ensure we are the Earth’s most customer centric company! As an owner, we want you to be successful.

At your earliest convenience, please see us to discuss your current negative UPT balance as it has the possibility of impeding your continued employment as it relates to our attendance policy. **Please respond to this email or speak with HR on site no later than 48 hours after receiving this email.** Please note that if you fail to return to work by Saturday, November 11th, your employment will be terminated.

Regards,

(b) (6), (b) (7)(C)



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 9
550 MAIN ST
RM 3003
CINCINNATI, OH 45202-3271

Agency Website: www.nlrb.gov
Telephone: (513)684-3686
Fax: (513)684-3946

December 19, 2017

(b) (6), (b) (7)(C)

Re: AMAZON.COM
Case 09-CA-208929

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that AMAZON.COM has violated the National Labor Relations Act.

Decision to Dismiss: Based on our investigation, I have concluded that further proceedings are not warranted, and I am dismissing your charge for the following reasons:

Your charge alleges that the Employer threatened to terminate you and subsequently terminated you because you engaged in protected union and concerted activity and because you previously filed charges with the Board. The evidence, however, did not support these allegations. Initially, I note that the evidence failed to establish that the Employer threatened to terminate you for any reason prohibited by the National Labor Relations Act. In addition, the evidence failed to establish that the Employer's decision to terminate you was motivated by any reason proscribed by the National Labor Relations Act. In this regard, the investigation did not disclose any independent evidence of animus or hostility by the Employer towards you because of any protected activity you may have engaged in. Similarly, the evidence failed to establish that your termination was close enough in time to your protected activities, which were remote in time, to support an inference of unlawful motivation. Additionally, the evidence failed to establish any connection between your charge filing activities and your termination, which had not yet occurred at the time you filed the instant charge. Finally, the evidence failed to establish that the reasons proffered by the Employer for your termination were false or otherwise a pretext.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlrb.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **January 2, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than January 1, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before January 2, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after January 2, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

Garey Edward Lindsay
Regional Director

Enclosure

cc: Jeff Bezos, CEO
Amazon.com
410 Terry Ave N
Seattle, WA 98109

Michael E. Lignowski, Esq.
Morgan, Lewis & Bockius, LLP
1701 Market St
Philadelphia, PA 19103-2901

Marina C. Gruber, Attorney At Law
Morgan Lewis & Bockius LLP
1400 Page Mill Rd
Palo Alto, CA 94304-1124

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)



(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

Amazon.com 09-CA-208929 Determination

(b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>

Fri, Dec 29, 2017 at 3:59 PM

To: Tansino, Joseph F." <Joseph.Tansino@nrlb.gov>

Dear National Labor Relations Board Office of Appeals,

THIS IS A FORMAL APPEAL OF THE DECISION IN CASE 09-CA-208929.

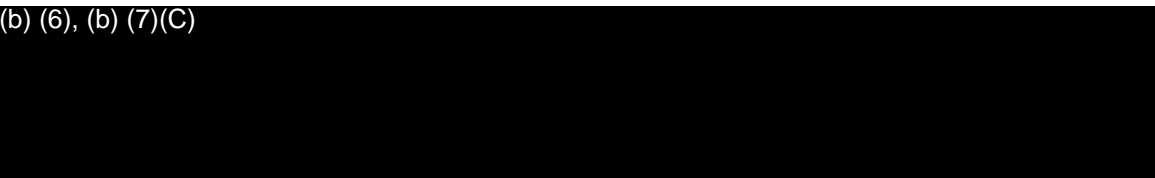
The grounds for this appeal is that NLRB Region 9 did not do an investigation into the charges filed that would meet the minimum criteria of the law creating the NLRB process for the Administrative procedure required for the operation of this agency.

ITEMS:

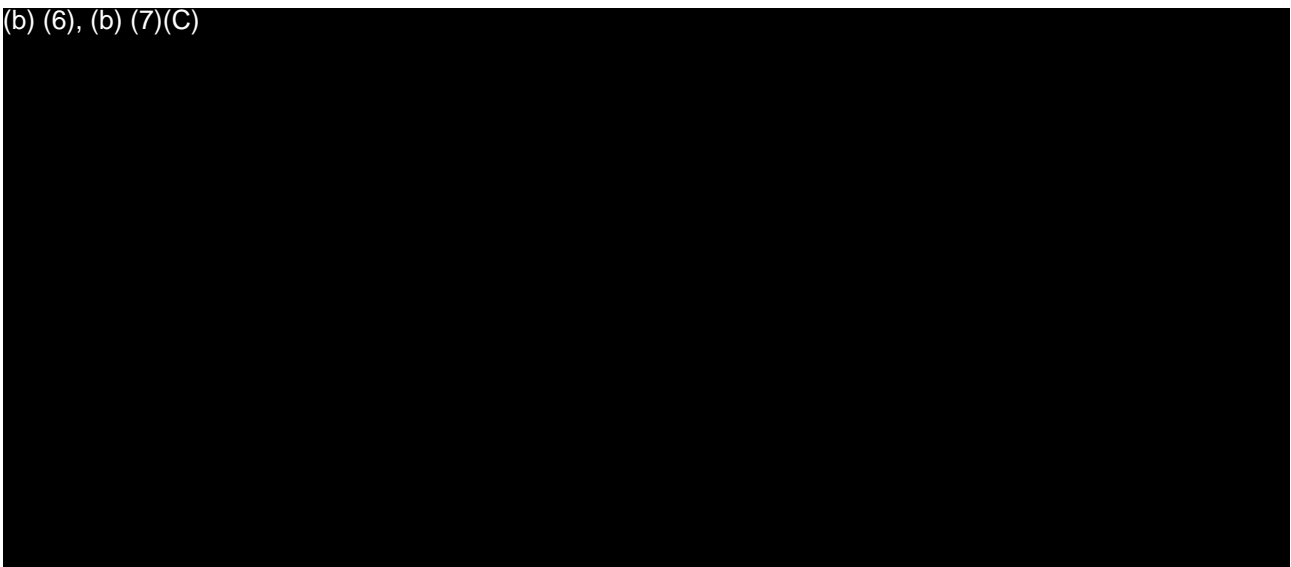
1. NLRB Region 9 Director Gary Lindsay is running a Kangaroo Court & this process was a sham.
2. NLRB Region 9 Director Gary Lindsay should be terminated immediately.
3. Agency still has not issued a subpoena for Amazon (b) (6), (b) (7)(C) company communications directing company action @ CVG5 toward the NLRB charging party, (b) (6), (b) (7)(C)
4. NLRB Supervising Attorney Naima Clarke is obstructing this investigation & should be terminated immediately. I CALL FOR A FORMAL REVIEW OF HER ACTIONS.

Sincerely,

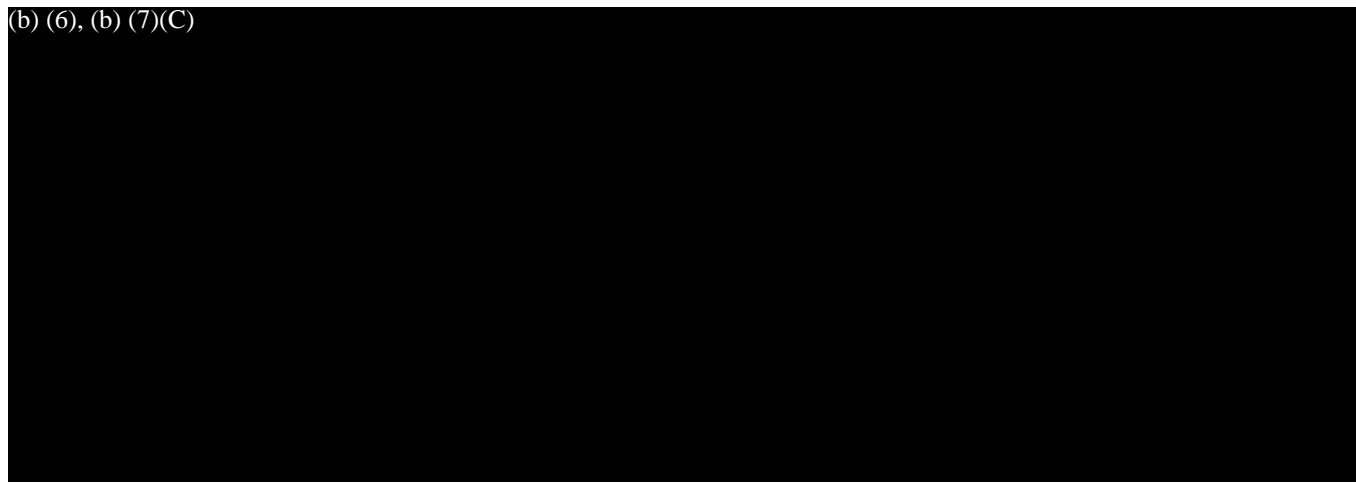
(b) (6), (b) (7)(C)



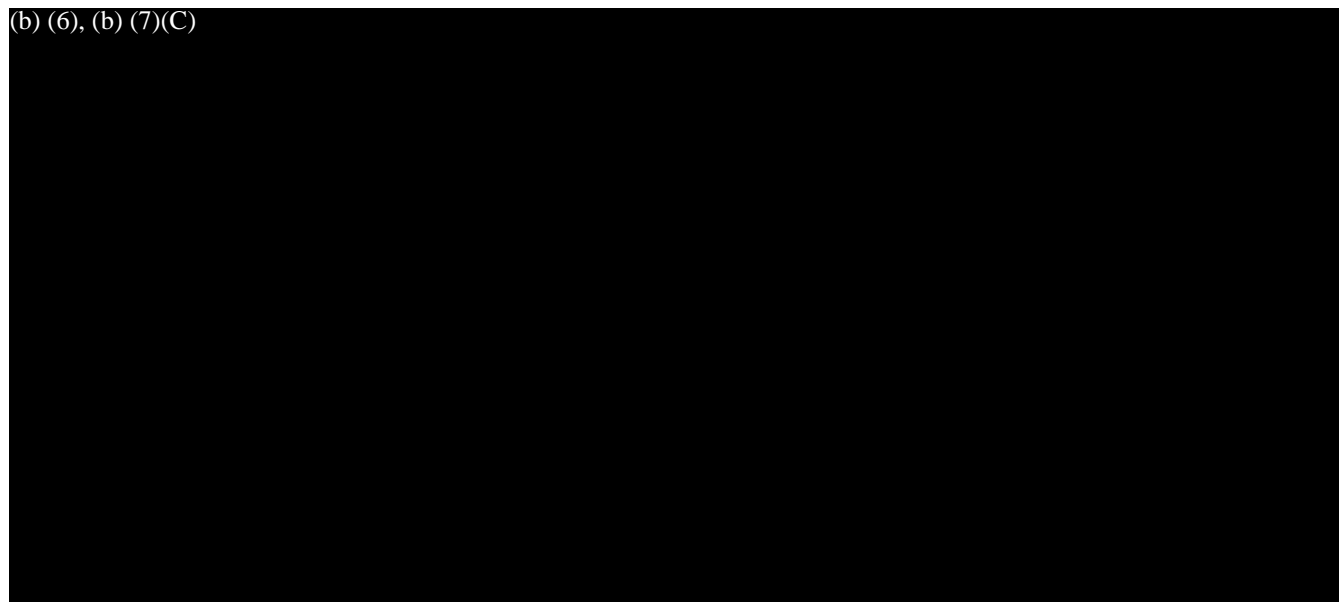
(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)





(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

RE: 09-CA-208929-Appeal, 09-CA-208929-Documentary Evidence, 09-CA-208929-Documentary Evidence

(b) (6), (b) (7)(C) <(b) (6), (b) (7)(C) >

Fri, Dec 29, 2017 at 4:22 PM

To: e-Service@nlrb.gov

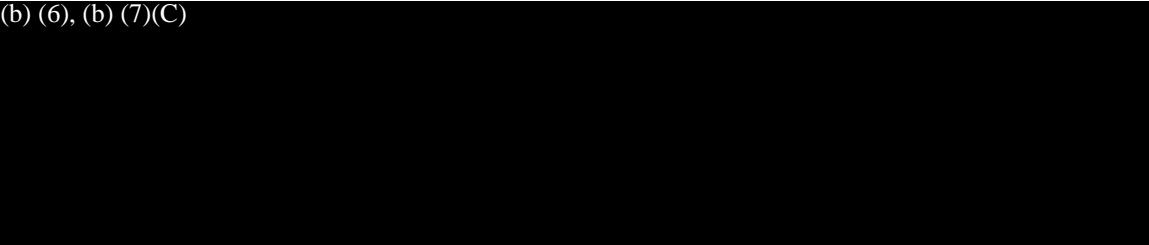
Dear **NLRB**,

I FORMALLY REQUEST TO BE PROVIDED & REPRESENTED BY LEGAL COUNCIL ON CASE #09-CA-208929

& All the other AMAZON.COM related cases I have before the NLRB currently & within the last year on THE GROUNDS that I CAN NOT AFFORD LEGAL COUNCIL FOR THESE PROCEEDINGS, that Amazon can & that this process is devolving into a Kangaroo court otherwise.

Sincerely,

(b) (6), (b) (7)(C)





UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

April 18, 2018

(b) (6), (b) (7)(C)

Re: Amazon.com
Case 09-CA-208929

Dear (b) (6), (b) (7)(C)

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered. We agree with the Regional Director's decision and deny your appeal substantially for the reasons in (b) (6), (b) (7)(C) letter of December 19, 2017.

The appeal contends that a subpoena should have been issued for a witness of the Employer. Pursuant to the Agency's policies and procedures, investigative subpoenas are utilized responsibly to make available to the Regional Director evidence necessary for deciding whether a complaint should issue. Section 11770 of the *NLRB's Case Handling Manual* states that there is no right to an investigative subpoena available to parties other than the General Counsel. In your case, we agree with the Regional Director that an investigative subpoena was not needed because the evidence voluntarily submitted by both parties was enough to make a determination on the merits of your charge. Finally, inasmuch as you are alleging that, the Regional Office conducted an inadequate investigation, our review of the investigatory files shows that the Regional Office conducted an appropriate investigation in accordance with the Agency's policies and procedures. The Regional Director properly based the dismissal on the evidence presented by the parties and the case law.

Accordingly, further proceedings are unwarranted.

Sincerely,

Peter Barr Robb
General Counsel



By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: GAREY EDWARD LINDSAY
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
550 MAIN ST RM 3003
CINCINNATI, OH 45202-3271

JEFF BEZOS, CEO
AMAZON.COM
410 TERRY AVE N
SEATTLE, WA 98109

MICHAEL E. LIGNOWSKI, ESQ.
MORGAN, LEWIS & BOCKIUS, LLP
1701 MARKET ST
PHILADELPHIA, PA 19103

MARINA C. GRUBER, ESQ.
MORGAN LEWIS & BOCKIUS LLP
1400 PAGE MILL RD
PALO ALTO, CA 94304-1124

kh

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case 09-CA-212022	Date Filed December 21, 2017
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INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer AMAZON.COM		b. Tel. No. (206) 266-1000
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 410 Terry Ave N WA Seattle 98109-_____	e. Employer Representative Jeff Bezos President & CEO	g. e-Mail jeff@amazon.com
		h. Number of workers employed 2000
i. Type of Establishment (factory, mine, wholesaler, etc.) Transportation	j. Identify principal product or service Internet Sales	

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 3 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C) Title:

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No.
(b) (6), (b) (7)(C)

4c. Cell No.

4d. Fax No.

4e. e-Mail
(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

(b) (6), (b) (7)(C)

(signature of representative or person making charge)

(b) (6), (b) (7)(C)

Title:
(Print/type name and title or office, if any).

Tel. No.
(b) (6), (b) (7)(C)

Office, if any, Cell No.

Fax No.

e-Mail
(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Address _____ 12/20/2017 22:52:26 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

RECEIVED NLRB REGION 9

2017 DEC 21 AM 11:41

CINCINNATI, OH

Basis of the Charge

8(a)(3)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, protesting terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee discharged	Approximate date of discharge
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C), 2017

RECEIVED NLRB REGION 9

2017 DEC 21 AM 11:42

CINCINNATI, OH



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 9
550 MAIN ST
RM 3003
CINCINNATI, OH 45202-3271

Agency Website: www.nlr.gov
Telephone: (513)684-3686
Fax: (513)684-3946

January 12, 2018

(b) (6), (b) (7)(C)

Re: AMAZON.COM
Case 09-CA-212022

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that AMAZON.COM has violated the National Labor Relations Act.

Decision to Dismiss: In view of your lack of cooperation in investigating this case, I have determined that further proceedings are not warranted at this time and I am dismissing your charge. If you wish to refile this charge later when you can cooperate in the investigation, you may do so. However, your attention is directed to Section 10(b) of the Act which provides that a charge must be filed with the NLRB and served on the Charged Party within six months of the conduct alleged to be unlawful.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **January 26, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than**

11:59 p.m. Eastern Time on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than January 25, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before January 26, 2018**. The request may be filed electronically through the ***E-File Documents*** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after January 26, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/ Garey Edward Lindsay

Garey Edward Lindsay
Regional Director

Enclosure

cc: Jeff Bezos, President & CEO
AMAZON.COM
410 Terry Ave N
Seattle, WA 98109

Michael E. Lignowski, Attorney at Law
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103-2921

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)



(b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>

RE: Inquiry # 1-2143554351 - Signed Charge Against Employer, Documentary Evidence

(b) (6), (b) (7)(C) (b) (6), (b) (7)(C) >
To: dgecpC09@nlrb.gov

Wed, Jan 24, 2018 at 2:47 PM

Dear NLRB,

I FORMALLY REQUEST AN APPEAL TO BE PROVIDED & REPRESENTED BY LEGAL COUNCIL ON this CASE #09-CA-212022 on the grounds that the NLRB never conducted a deposition in this case. Attached is my communication with them scheduling this deposition after work to which they no showed. I request legal council on THE GROUNDS that I CAN NOT AFFORD LEGAL COUNCIL FOR THESE PROCEEDINGS, that Amazon can & that this process is devolving into a Kangaroo court otherwise.

Sincerely,

(b) (6), (b) (7)(C)

On Wed, Dec 20, 2017 at 10:55 PM, <dgecpC09@nlrb.gov> wrote:
Confirmation Number: **1000182475**

You have successfully accomplished the steps for E-Filing a **Charge - CA** with NLRB Region 09, Cincinnati, Ohio. This email is one of the two confirmation emails that you receive with the NLRB E-File submission. Attached is a copy of **Charge - CA** PDF document generated based on the information provided to NLRB through the E-File application. Please save this attached PDF document for your record. A copy of the same PDF document is submitted for review to the Region listed above.

Until your case is docketed and is assigned an NLRB Case Number by the Region, please use **Inquiry No. 1-2143554351** to E-file any documents you wish to present regarding your charge. Click the link below to E-File additional documents and/or to view your previous E-filings with the NLRB. Your account profile is saved in our system. When you use this link to E-File documents your contact information will be pre-populated.
[E-File Additional Documents/View previously E-filed documents](#)

In addition, under the NLRB's Rules and Regulations you are responsible for timely and properly serving the charge on the person or entity you are filing against. Please review important information [here](#).

DO NOT REPLY TO THIS MESSAGE. THIS IS A POST-ONLY NOTIFICATION.
MESSAGES SENT DIRECTLY TO THE EMAIL ADDRESS LISTED ABOVE WILL NOT BE READ.



(b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>

Meeting Schedule (wifi trouble, please confirm you received this)

(b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)>

Thu, Jan 4, 2018 at 9:54 AM

To: Tansino, Joseph F. <Joseph.Tansino@nlrb.gov>

Tuesday sounds fine; it's a work day for me, let's meet @ the library in the evening, H

On Thu, Jan 4, 2018 at 9:18 AM, Tansino, Joseph F. <Joseph.Tansino@nlrb.gov> wrote:

(b) (6), (b) (7)(C)

In light of your furnace issue, I am available to meet with you in my office tomorrow, Monday, or Tuesday at 4pm. Please confirm by the close of business today, 4:30pm, which date you are available, so that I can plan accordingly.

Joseph F. Tansino

Attorney, NLRB Region 9

(513) 684-3660

From: (b) (6), (b) (7)(C) [mailto:(b) (6), (b) (7)(C)]

Sent: Wednesday, January 03, 2018 11:08 PM

To: Tansino, Joseph F. <Joseph.Tansino@nlrb.gov>

Cc: Clarke, Naima R. <Naima.Clarke@nlrb.gov>

Subject: Meeting Schedule (wifi trouble, please confirm you received this)

Good Morning Mr Tansino, I returned from Chicago today to a furnace in my home that is malfunctioning/not working. Additionally, for the record, the power went out here & I returned to find many of my clocks blinking

As we still do not have an agreed upon location for our 4 pm meeting tomorrow, it is going to have to be scheduled for another day

Sincerely, (b) (6), (b) (7)(C)



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

February 18, 2018

(b) (6), (b) (7)(C)

Re: Amazon.com
Case 09-CA-212022

Dear (b) (6), (b) (7)(C)

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered. We agree with the Regional Director's determination and deny the appeal. A Charging Party must fully cooperate with the Regional Office's investigation of the unfair labor practice charge and expeditiously respond to its requests. In this case, you failed to cooperate in the investigation of the charge despite numerous attempts by the Board Agent to accommodate your requests in providing an affidavit. Particularly, you failed to appear at the Regional Office on January 9, 2018 as scheduled. The contentions raised in your appeal are insufficient to warrant a different result. Accordingly, further proceedings in the instant charge are unwarranted.

Sincerely,

Peter Barr Robb
General Counsel

A handwritten signature in black ink that reads "Mark E. Arbesfeld".

By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: GAREY EDWARD LINDSAY
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
550 MAIN ST RM 3003
CINCINNATI, OH 45202-3271

MICHAEL E. LIGNOWSKI, ESQ.
MORGAN, LEWIS & BOCKIUS, LLP
1701 MARKET ST
PHILADELPHIA, PA 19103-2921

JEFF BEZOS, PRESIDENT & CEO
AMAZON.COM
410 TERRY AVE N
SEATTLE, WA 98109

kh